



COMMONWEALTH OF KENTUCKY  
OFFICE OF THE ATTORNEY GENERAL

ALBERT B. CHANDLER III  
ATTORNEY GENERAL

1024 CAPITAL CENTER DRIVE  
FRANKFORT, KY 40601-8204

September 26, 2003

Mr. Thomas Dorman  
Executive Director,  
Public Service Commission  
211 Sower Boulevard  
Frankfort, Kentucky

RECEIVED  
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PUBLIC SERVICE  
COMMISSION

RE: The Application of the Union Light, Heat and Power Company for a Certificate of Public Convenience and Necessity to Acquire Certain Generation Resources and Related Property; for Approval of Certain Purchase Power Agreements; for Approval of Certain Accounting Treatment; and for Approval of Deviation from the Requirements of KRS 278.2207 and KRS 278.2213(6), Case No. 2003-00252

Dear Mr. Dorman,

Included herewith are the original and ten true copies of the Direct Testimonies of David H. Brown Kinloch, Charles W. King and Michael J. Majoros, Jr. to be filed in the above-styled action. Service of a true copy of the testimonies, together with attachments, appendices and exhibits has been made on all parties listed below by first class mail, postage prepaid.

Sincerely,

Elizabeth E. Blackford  
Assistant Attorney General  
1024 Capital Center Drive, Suite 2000  
Frankfort, Kentucky 40601-8204

Cc: Hon. Michael J. Pahutski  
Hon. John Finnigan, Jr.





**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

**CASE NO. 2003-00252**

**APPLICATION OF**  
**UNION LIGHT HEAT AND POWER COMPANY**  
**FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY**  
**TO ACQUIRE CERTAIN GENERATION RESOURCES**

**TESTIMONY OF**  
**DAVID H. BROWN KINLOCH**

On Behalf of

**THE OFFICE OF THE ATTORNEY GENERAL**  
**FOR THE COMMONWEALTH OF KENTUCKY**

**SEPTEMBER 2003**

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

\* \* \* \* \*

In the Matter of:

IN THE MATTER OF THE APPLICATION OF THE )  
 UNION LIGHT, HEAT AND POWER COMPANY )  
 FOR A CERTIFICATE OF PUBLIC CONVENIENCE )  
 AND NECESSITY TO ACQUIRE CERTAIN )  
 GENERATION RESOURCES AND RELATED )  
 PROPERTY; FOR APPROVAL OF ) CASE NO. 2003-00252  
 CERTAIN PURCHASE POWER AGREEMENT; )  
 FOR APPROVAL OF CERTAIN ACCOUNTING )  
 TREATMENT; AND FOR APPROVAL )  
 OF DEVIATION FROM REQUIREMENTS OF KRS )  
 278.2207 AND 278.2213(6) )

TESTIMONY OF DAVID H. BROWN KINLOCH

Q1: PLEASE STATE YOUR NAME AND ADDRESS.

A1: My name is David H. Brown Kinloch and my business address is Soft Energy Associates, 414 S. Wenzel Street, Louisville, KY 40204.

Q2: FOR WHOM HAVE YOU PREPARED TESTIMONY?

A2: I have prepared this testimony for the Office of the Attorney General for the Commonwealth of Kentucky.

1 Q3: PLEASE STATE YOUR EDUCATIONAL AND PROFESSIONAL  
2 BACKGROUND.

3 A3: I have received two master's degrees from Rensselaer Polytechnic Institute (RPI)  
4 in Troy, New York. I also received two undergraduate degrees from the same  
5 school. My master's degrees are a Master of Engineering in Mechanical  
6 Engineering and a Master of Science in Science, Technology and Values,  
7 received in 1979 and 1981 respectively. My undergraduate degrees are in  
8 Mechanical Engineering and Philosophy. Much of my master's work included  
9 preparing Electric Generation Planning studies for the Center for Technology  
10 Assessment at Rensselaer. From this work I published two technical papers with  
11 IEEE Power Generation Division, and was a contributing author on two others. I  
12 also did work on New York State's first Energy Masterplan, one of the first  
13 comprehensive long-term planning studies in the nation.

14  
15 Q4: HAVE YOU PREVIOUSLY PRESENTED TESTIMONY BEFORE THIS  
16 COMMISSION?

17 A4: Yes, I testified in the following rate cases: Louisville Gas & Electric Co. Case No.  
18 2000-080, Case No. 90-158, Case No. 10064, and Case No. 9824; Kentucky  
19 Power Co. Case No. 91-066; Union Light Heat and Power Co. Case No. 92-346  
20 and Case No. 91-370; Big Rivers Electric Corp. Case No. 9613 and Case No. 97-  
21 204; Delta Natural Gas Co. Case No. 97-066; Western Kentucky Gas Co. 95-010;  
22 East Kentucky Power Cooperative Case No. 94-336; Clark RECC Case No. 92-  
23 219; Jackson Purchase ECC Case No. 97-224; Meade County RECC Case No.

1 97-209; Green River EC Case No. 97-219, Henderson Union ECC Case No. 97-  
2 220, and Licking Valley RECC Case No. 98-321. I also presented testimony in  
3 cases involving each of East Kentucky Power's Cooperatives in the pass-through  
4 of rate reductions associated with Case No. 94-336. I also testified in the  
5 Commission's reviews of LG&E's Trimble County power plant, Case No. 9934  
6 and Case No. 9242, and the rate impact of the 25% disallowance of that project,  
7 Case No. 10320. In addition, I presented testimony in the Certificate of  
8 Convenience and Necessity cases for Kentucky Utilities, Case No. 91-115, LG&E  
9 and KU, Case No. 2002-00029, and East Kentucky Power, Case No. 92-112, Case  
10 No. 2000-056, Case No. 2000-079, Case No. 2001-053 and Case No. 2003-030. I  
11 have also testified in Fuel Adjustment Clause cases involving Louisville Gas and  
12 Electric, Case No. 96-524, and Kentucky Utilities, Case No. 96-523; and in  
13 Environmental Surcharge cases involving Kentucky Power, Case No. 96-489;  
14 Kentucky Utilities, Case No. 93-465; and Louisville Gas and Electric, Case No.  
15 94-332. Other cases in which I presented testimony include the Kentucky  
16 Utilities' Coal Litigation Refund case, Case No. 93-113; the Big Rivers' sale of  
17 peaking capacity to Hoosier Energy case, Case No. 93-163; the Joint Application  
18 case with LG&E to establish Demand Side Management programs, Case No. 93-  
19 150; and the Louisville Gas and Electric and Kentucky Utilities merger case, Case  
20 No. 97-300, the LG&E Energy and PowerGen merger case, Case No. 2000-095;  
21 and a Union Light, Heat and Power refund case, Case No. 2000-426.

22

23

1 Q5: WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS CASE?

2 A5: Union Light, Heat and Power Co. (ULH&P) has proposed to purchase a number  
3 of generating units from its parent company, Cincinnati Gas and Electric Co.  
4 (CG&E), and use these units, along with some power purchases from CG&E, in  
5 place of its currently approved power purchase agreement with CG&E and any  
6 successor market-based power purchase agreement that would be negotiated upon  
7 the termination of the currently approved agreement. I plan to evaluate whether  
8 this purchase is in the best interest of ULH&P ratepayers, or whether other  
9 options might better serve these customers.

10

11 Q6: IN THIS CASE, ULH&P PROPOSES TERMINATING ITS CURRENTLY  
12 APPROVED POWER PURCHASE CONTRACT AND MEETING ITS  
13 CURRENT AND FUTURE NEEDS BY ACQUIRING ITS OWN  
14 GENERATING ASSETS. DO YOU BELIEVE SUCH A MOVE WOULD  
15 BENEFIT ULH&P CUSTOMERS?

16 A6: Yes. I believe that at the expiration of ULH&P's current contract to purchase  
17 power from CG&E, the possibility that ULH&P will have to purchase power at  
18 market rates leaves customers extremely vulnerable to volatility in electric  
19 markets. Owning its own generating assets would shelter customers from market  
20 fluctuations and stabilize rates. Stable rates help residential customers on fixed  
21 budgets and also help businesses keep operating costs under control.

22 ULH&P should be encouraged to move toward getting at least a portion of  
23 its power from regulated generating assets and away from complete dependence

1 on the volatile electric market. The proposal made by ULH&P in this case is a  
2 positive step in this direction. CG&E should be commended for putting forth this  
3 concept and for its willingness to transfer generating assets to its ULH&P  
4 affiliate.

5  
6 Q7: THE COMMISSION HAS REQUESTED THAT ULH&P PREPARE AN  
7 INTEGRATED RESOURCE PLAN, SEPARATE FROM CG&E, TO  
8 DETERMINE WHAT IS THE LOWEST COST WAY TO REDUCE ULH&P  
9 EXPOSURE TO VOLATILE ELECTRIC MARKET PRICES AT THE  
10 EXPIRATION OF THE CURRENTLY APPROVED POWER PURCHASE  
11 AGREEMENT. IS THE PROPOSAL PUT FORTH IN THIS CASE THE  
12 LOWEST COST APPROACH TO REDUCE THE COST AND VARIABILITY  
13 OF MARKET POWER?

14 A7: From the information put forth by ULH&P in this case, there is no way to know.  
15 In its application, ULH&P only considered the offer made by CG&E, an  
16 alternative CG&E offer that would have included the Zimmer plant, and the  
17 option of relying entirely on building all new generating units.

18 It is no surprise that the offer made by CG&E was less expensive than  
19 building new generation because it included partially depreciated generating  
20 assets. It was also no surprise that the offer put forth by CG&E was less  
21 expensive than an alternative offer containing the Zimmer unit. The Zimmer  
22 plant was one of the most expensive coal-fired units ever built in this country at  
23 \$1,868 per Kilowatt, due to its conversion from an abandoned nuclear station.

1 Any option including the Zimmer plant, even partially depreciated, was sure to be  
2 uneconomical. Thus the offer made by CG&E was only compared to two other  
3 options, each one clearly uneconomical due to the inclusion of very expensive  
4 components.

5  
6 Q8: ARE THESE THE ONLY OPTIONS AVAILABLE TO ULH&P?

7 A8: While these were the only options considered by ULH&P, they are not the only  
8 options available. ULH&P failed to look beyond CG&E for options other than  
9 building all new generating capacity. When looking for generating capacity,  
10 utilities commonly issue a Request for Proposals (RFP) in an attempt to ascertain  
11 what options are available.

12  
13 Q9: DID ULH&P ISSUE AN RFP TO DETERMINE IF THERE WERE ANY  
14 OTHER OPTIONS AVAILABLE TO IT?

15 A9: No. In their testimony, ULH&P witnesses Fricke and McCarthy admit that no  
16 RFP was issued. Poor credit ratings of potential bidders and a focus on shorter  
17 term contracts led Mr. Fricke to conclude, "ULH&P probably would not have  
18 been successful in obtaining viable bids in response to such an RFP."

19  
20 Q10: DO YOU AGREE WITH MR. FRICKE THAT VIABLE BIDS COULD NOT  
21 BE OBTAINED FROM AN RFP?

22 A10: No. This opinion from ULH&P certainly stands in contrast to the experiences of  
23 other utilities in the Commonwealth. On December 17, 2002, East Kentucky

1 Power Cooperative (EKPC) issued an RFP for peaking power and received 34  
2 viable bids from 27 bidders. Some of the bids were for Power Purchase  
3 Agreements, some were for already built "iron in the ground" generating stations,  
4 and some were to construct new generating units for EKPC. The result of  
5 analysis of the bids showed that construction of two new combustion turbines at  
6 an EKPC site was the best option. The generating units will be supplied by the  
7 low cost bidder in the RFP process. A certificate case based on the results of the  
8 RFP was filed at the Commission by EKPC on August 4, 2003. In his testimony  
9 in that case, witness David Eames concludes, "The current depressed capacity  
10 market made pricing for the proposed combustion turbines very competitive."<sup>1</sup>  
11 EKPC intends to use those same RFP results to acquire an additional 100 MW of  
12 capacity.

13 It is clear that other utilities have found that the RFP process can produce  
14 numerous viable options. While all bidders may not be credit worthy, if 27  
15 different bidders participate, there are usually some viable bids, as EKPC found  
16 out. But in this case, we have no way of knowing whether there are any viable  
17 bidders to supply ULH&P because the Company failed to solicit any Requests for  
18 Proposals.

19

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<sup>1</sup> *In the Matter of: the Application of East Kentucky Power Cooperative, Inc. for a Certificate of Public Convenience and Necessity, and a Site Compatibility Certificate, for the Construction of Two 80 MW (Nominal) Combustion Turbine Generating Units in Clark County, Kentucky, Case No. 2003-00297, Direct Testimony of David Eams, p. 4, line 4.*

1 Q11: IF WE ASSUME FOR THE MOMENT THAT ULH&P IS CORRECT THAT  
2 AN RFP WOULD PRODUCE NO VIABLE BIDS, THEN WOULDN'T IT BE  
3 TRUE THAT AN RFP WOULD HAVE BEEN SIMPLY A WASTE OF  
4 VALUABLE TIME AND RESOURCES?

5 A11: No. The RFP process is the primary way that the Commission and ratepayers can  
6 be assured that the utility is pursuing the least cost option. Even in cases when a  
7 utility "self-builds", an RFP process is very useful to assure that capacity built by  
8 the utility is cheaper than acquiring capacity from another party. In those cases,  
9 the utility will submit a bid along with all the other bidders, and all bids, including  
10 the utility's own bid, are evaluated equally using the same criteria. This RFP  
11 process was used recently by EKPC to demonstrate to the Commission that its  
12 Gilbert "self-build" option was the least cost alternative.

13 The RFP process is even more important with regard to transactions  
14 between affiliated utilities. The combustion turbines recently added to the  
15 LG&E/KU system were actually constructed by an unregulated LG&E Energy  
16 affiliate, LG&E Capital. When LG&E and KU came to the Commission for  
17 permission to transfer these generating assets from the unregulated affiliate, the  
18 RFP process played a crucial role. LG&E and KU used an RFP to demonstrate to  
19 the Commission that the sale from the affiliate was the lowest cost option  
20 available. Transactions between affiliates require extra scrutiny due to the  
21 potential for agreements that are not in the best interest of ratepayers. In fact,  
22 both statutes and Commission regulations govern affiliate transactions to assure  
23 ratepayer protection in transactions that are not made at arm's length.

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Q12: OTHER UTILITIES HAVE USED THE RFP PROCESS TO ASSURE THE COMMISSION THAT THEIR AFFILIATE TRANSACTIONS ARE IN THE BEST INTEREST OF RATEPAYERS. IN THIS CASE, ULH&P HAS NOT EMPLOYED THE RFP PROCESS. WHAT METHODOLOGY HAS IT RELIED UPON INSTEAD TO DEMONSTRATE THAT THE PROPOSED AFFILIATE TRANSACTION WILL NOT HARM ULH&P CUSTOMERS?

A12: ULH&P has used two approaches. First it has compared the acquisition of CG&E assets to a market-rate contract and has shown a savings based on future wholesale prices projected by a ULH&P witness. Second, ULH&P has asked the Commission to wave certain regulations that govern affiliate transactions. While I am willing to agree that the proposed transaction is probably a better deal for ratepayers than the risks associated with a market-based contract, I do not believe that this is adequate justification to allow affiliated transactions to be made without the sort of preparatory investigation that other utilities use in determining how to best meet the needs of their customers.

Q13: IF THE PROPOSED TRANSFER IS, IN YOUR OPINION, A BETTER DEAL THAN THE RISKS OF FUTURE MARKET-BASED CONTRACTS, WHY SHOULD THE COMMISSION NOT SIMPLY APPROVE THE TRANSACTION?

A13: Just because the proposed transaction offers UHL&P a better deal than what it might face at the end of its currently approved power purchase contract, it does

1 not mean that this is the best option for ULH&P. There could very well be better,  
2 lower cost alternatives that ULH&P has not considered.

3  
4 Q14: YOU STATED PREVIOUSLY THAT NO ONE, INCLUDING YOURSELF,  
5 KNOWS IF BETTER OPTIONS ARE OUT THERE, BECAUSE AN RFP WAS  
6 NOT PURSUED BY ULH&P. WHAT MAKES YOU THINK THAT THE  
7 CG&E OFFER MAY NOT BE ULH&P'S BEST OPTION?

8 A14: While it is true that I do not know what the results would have been had ULH&P  
9 done an RFP, there are certain elements of the CG&E offer that suggest that there  
10 may be better options for ULH&P.

11 The proposed sale of the entire 500 MW Woodsdale peaking plant to  
12 ULH&P raises a number of serious questions. First, in the Integrated Resource  
13 Plan done in this case by Ms. Jenner, the optimum generation mix determined in  
14 the "All New Generic Units #1 Plan" calls for just 280 MW of peaking capacity  
15 for ULH&P, about half of the peaking capacity in the proposed sale. It is  
16 interesting that after the proposed sale, 44% of ULH&P generating capacity will  
17 be peaking, while peaking capacity will make up only 8% of CG&E's generating  
18 mix.

19 The impact of the proposed overabundance of peaking capacity on the  
20 ULH&P system is demonstrated in the modeling done by ULH&P. After the  
21 proposed sale, the ULH&P reserve margin would be in the range of 20%, while  
22 CG&E (Ohio) will have a reserve margin which is much smaller (see Confidential  
23 Data Response KyAG-DR-02-014-Attachment for the exact figure). While

1 CG&E will have a much lower reserve margin, CG&E will still need to sell  
2 ULH&P about 8% of the power it needs because ULH&P would have an  
3 unbalanced generation mix that is top heavy with so much proposed capacity  
4 being expensive-to-run peaking units.

5  
6 Q15: THE ADVANTAGE OF PEAKING CAPACITY IS THAT EVEN THOUGH  
7 ITS RUNNING COSTS ARE VERY HIGH, IT IS MUCH LESS EXPENSIVE  
8 TO INSTALL. DOESN'T ULH&P TAKE ADVANTAGE OF THIS FACT IN  
9 THE PROPOSED SALE?

10 A15: No. The Woodsdale plant was very expensive to build at a cost of \$576 per  
11 Kilowatt (from CG&E's FERC Form 1). While this plant is 11 years old, the net  
12 book value of the plant is still \$322 per Kilowatt. This is close to the cost of base  
13 and intermediate capacity in the proposed sale of \$387 per Kilowatt. Thus  
14 ULH&P would be paying roughly the same price per kilowatt for expensive-to-  
15 operate gas-fired peaking capacity, as it would pay for low operating cost steam  
16 capacity. Loading up the ULH&P system with more peaking capacity than is  
17 optimum is no bargain when the fixed cost of that peaking capacity is in the cost  
18 range of steam capacity.

19 The high cost of the Woodsdale capacity raises other questions. In the  
20 Integrated Resource Plan offered in this case, Ms. Jenner estimates the cost of  
21 new peaking capacity to be in the range of \$414 per Kilowatt. This estimate may  
22 very well be high, considering the very competitive market for combustion  
23 turbines due to all of the available equipment that has been built but never

1 installed. The Commission must ask whether it makes more sense to install brand  
2 new peaking generation in the ULH&P service territory rather than buying used  
3 equipment in need of a \$44 million major overhaul that is located in another  
4 utility's service territory at roughly the same cost. Installing new equipment  
5 would also allow ULH&P to buy the amount of peaking capacity that is optimum  
6 for its system, instead of buying an existing plant which has nearly twice the  
7 peaking capacity that is needed. But, because ULH&P has not done an RFP which  
8 would establish what capacity is available, and at what price, it is difficult to  
9 analyze whether building new peaking capacity is the best option.

10  
11 Q16: ULH&P HAS INDICATED THAT WOODSDALE CANNOT BE VIEWED  
12 ALONE; BUT AS PART OF A PACKAGE THAT INCLUDES SOME  
13 ATTRACTIVELY PRICED BASELOAD CAPACITY. IS THE BASELOAD  
14 CAPACITY AS GOOD A BARGAIN AS ULH&P STATES?

15 A16: While baseload capacity is being offered at an attractive depreciated price, it is  
16 unclear how much of a bargain it is. CG&E has proposed selling the East Bend  
17 baseload plant to ULH&P. The role this plant plays in the Cinergy system is quite  
18 revealing. There are 18 Cinergy plants that are dispatched before East Bend. The  
19 combined capacity of these 18 plants is nearly 7000 MW. And of all the CG&E  
20 baseload plants, only one is dispatched after East Bend. Being very late in the  
21 dispatch order indicates that East Bend is not as efficient as the other Cinergy  
22 plants, and thus will be run less and produce less energy than these other Cinergy  
23 plants.

1 By offering a package to ULH&P that is made up primarily of the very  
2 expensive Woodsdale peaking plant and the lower efficiency East Bend plant, it  
3 would appear that CG&E is trying to cull its generating fleet of its least attractive  
4 units. After the proposed sale, from a cost standpoint CG&E would be left with a  
5 leaner, lower cost generating fleet, and ULH&P would be left with some of  
6 CG&E's least attractive generating assets.

7  
8 Q17: EVEN IF THESE ARE SOME OF CG&E'S LEAST ATTRACTIVE ASSETS,  
9 IS THIS A BETTER DEAL THAN ULH&P COULD GET ELSEWHERE?

10 A17: That isn't clear. This is a very good time to be looking for capacity. The current  
11 market for capacity is now depressed, as Mr. Eames from East Kentucky Power  
12 stated. This means that capacity is available at lower prices. In the wake of the  
13 collapse of Enron and other non-regulated suppliers, the electric market has  
14 recently undergone change. Utilities and unregulated subsidiaries that were  
15 looking to make a fortune in the unregulated electric market just a few years ago,  
16 are now retreating and looking for stable earnings. In fact, this desire for stable  
17 earnings may have been one of the factors that led CG&E to offer this generating  
18 package to ULH&P. There may also be others in the industry that would offer  
19 attractive pricing to ULH&P to receive stable earnings. But we do not know what  
20 other options are available to ULH&P because it has not solicited a Request For  
21 Proposals.

22

1 Q18: BASED ON YOUR FINDINGS, WHAT RECOMMENDATIONS DO YOU  
2 HAVE FOR THE COMMISSION?

3 A18: Approval of the proposed sale would be premature at this time. ULH&P has not  
4 put forward the evidence necessary to determine if this proposed sale is the most  
5 cost effective option for ULH&P. Considering that this is a proposed transaction  
6 between affiliated companies, it is even more critical that all other options be  
7 explored to confirm that the transaction is in the best interest of ULH&P  
8 ratepayers. In summary, the Commission should require ULH&P to demonstrate  
9 that it has secured the best option for its ratepayers.

10  
11 Q19: HOW WOULD ULH&P DEMONSTRATE TO THE COMMISSION THAT  
12 THE CG&E TRANSACTION IS ITS LOWEST COST OPTION?

13 A19: The easiest way to demonstrate to the Commission that this sale is in the best  
14 interest of ratepayers is to do what other utilities in a similar position have done:  
15 issue a Request for Proposals. Because of the potential conflict presented by the  
16 proposed transaction, the RFP should be as broad as possible. Bidders could bid  
17 to supply all or part of ULH&P's need over any time frame. The RFP should  
18 request, but not be limited to:

- 19 1) Short-term purchases,  
20 2) Long-term purchases,  
21 3) All requirements contracts,  
22 4) Sale of Assets (iron in the ground),  
23 5) Offers to build new assets for ULH&P,

- 1           6)     Offers to supply generating equipment to ULH&P,
- 2           7)     Offers to install generating equipment for ULH&P, and
- 3           8)     Demand-Side resources.

4  
5           CG&E could submit the offer it has made to ULH&P and/or any other  
6           offers it feels would be competitive. ULH&P would then conduct an independent  
7           analysis to determine which mix of one or more bids would offer the best long-  
8           term plan to meet its load.

9           What I have outlined is the same process most other utilities have used  
10          before coming to the Commission with a Certificate application. I am not  
11          proposing any extraordinary measures, but simply what has become somewhat of  
12          a standard procedure before this Commission. Since ULH&P is looking to  
13          acquire all of its generating assets, as opposed to simply a small addition, and the  
14          proposed transaction is between affiliates a complete evaluation of alternatives is  
15          a necessity to Commission approval of this sale.

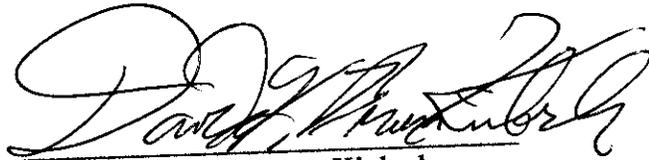
16

17   Q20: DOES THIS CONCLUDE YOUR TESTIMONY?

18   A20: Yes it does.

I, David H. Brown Kinloch, certify that the statements contained in the foregoing testimony are true and correct to the best of my knowledge, information, and belief.

Dated this 24th day of September, 2003.

  
David H. Brown Kinloch

Affirmed to and subscribed  
before me, this 24th day  
of September, 2003.

  
Notary Public

My Commission Expires: 6/23/2005



COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF THE UNION LIGHT, )  
HEAT AND POWER COMPANY FOR A )  
CERTIFICATE OF PUBLIC CONVENIENCE )  
AND NECESSITY TO ACQUIRE CERTAIN )  
GENERATION RESOURCES AND RELATED )  
PROPERTY; FOR APPROVAL OF CERTAIN )  
PURCHASE POWER AGREEMENTS; FOR )  
APPROVAL OF CERTAIN ACCOUNTING )  
TREATMENT; AND FOR APPROVAL OF )  
DEVIATION FROM REQUIREMENTS OF )  
KRS 278.2207 AND 278.2213(6) )

CASE NO. 2003-00252

**DIRECT TESTIMONY OF  
CHARLES W. KING**

ON BEHALF OF

THE OFFICE OF THE ATTORNEY GENERAL  
COMMONWEALTH OF KENTUCKY

SEPTEMBER 26, 2003

**DIRECT TESTIMONY OF  
CHARLES W. KING**

**INTRODUCTION**

**Q. PLEASE STATE YOUR NAME, POSITION AND BUSINESS ADDRESS.**

A. My name is Charles W. King. I am President of the economic consulting firm of Snavelly King Majoros O'Connor & Lee, Inc. ("Snavelly King"). My business address is 1220 L Street, N.W., Suite 410, Washington, D.C., 20005.

**Q. PLEASE DESCRIBE SNAVELLY KING.**

A. Snavelly King, formerly Snavelly, King & Associates, Inc., was founded in 1970 to conduct research on a consulting basis into the rates, revenues, costs and economic performance of regulated firms and industries. The firm has a professional staff of 15 economists, accountants, engineers and cost analysts. Much of its work involves the development, preparation and presentation of expert witness testimony before federal and state regulatory agencies. Over the course of its 33-year history, members of the firm have participated in over 1000 proceedings before almost all of the state commissions and all Federal commissions that regulate utilities or transportation industries.

**Q. HAVE YOU PREPARED A SUMMARY OF YOUR QUALIFICATIONS AND EXPERIENCE?**

A. Yes. Attachment A is a summary of my qualifications and experience.

**Q. HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY IN REGULATORY PROCEEDINGS?**

1 A. Yes. Attachment B is a tabulation of my appearances as an expert witness before  
2 state and federal regulatory agencies.

3

4 **Q. FOR WHOM ARE YOU APPEARING IN THIS PROCEEDING?**

5

6 A. I am appearing on behalf of the Attorney General of the Commonwealth of  
7 Kentucky.

8

9 **Q. WHAT ISSUES WILL YOU ADDRESS IN YOUR TESTIMONY?**

10

11 A. I will present the Attorney General's position with respect to the eight items for  
12 which Union Light, Heat & Power Company ("ULH&P" or "the Company")  
13 seeks approval from the Commission. I will also address the seven conditions  
14 that ULH&P witness Turner claims the Company must have before it will  
15 consummate the transfer of three plants from the Cincinnati Gas and Electric  
16 Company (CG&E) to ULH&P.

17

18 **SUMMARY OF TESTIMONY**

19

20 **Q. WHAT ARE THE EIGHT ITEMS FOR WHICH THE COMPANY SEEKS**  
21 **APPROVAL FROM THE COMMISSION?**

22

23 A. Mr. Gregory C Ficke, ULH&P's President, lists the eight items as follows:

24

25 1. A Certificate of Public Convenience and Necessity ("CPCN") for ULH&P  
26 to acquire CG&E's interest in the East Bend Generating Station, CG&E's  
27 Miami Fort Generating Station Unit 6, and CG&E's Woodsdale  
28 Generating Station and approval of a form of Asset Purchase Agreement  
29 to effectuate such an acquisition;

30 2. Approval to defer for future recovery the transaction costs Cinergy will  
31 incur as a result of such an acquisition;

- 1           3.     Approval to enter into certain wholesale power agreements with CG&E to
- 2                 provide firm back-up service to the East Bend and Miami Fort 6 plants
- 3                 during periods of maintenance or forced outages and to provide for joint
- 4                 economic dispatch of the plants;
- 5           4.     Approval to retain the profits from off-system sales of energy from the
- 6                 plants;
- 7           5.     A deviation from the affiliate transaction pricing requirements embodied
- 8                 in Chapter 278 of the Kentucky Revised Statutes for certain fuel-related
- 9                 affiliate agreements;
- 10          6.     Order that ULH&P's next IRP shall be due within three years of the
- 11                 Commission's final order in this proceeding;
- 12          7.     Approval for ULH&P to transfer the plants back to CG&E if the proposed
- 13                 rate treatment described by Mr. Turner (embodied in the seven conditions)
- 14                 is not afforded ULH&P in future rate proceedings before the Commission,
- 15                 and
- 16          8.     Authority for ULH&P to terminate its current Power Sale Agreement with
- 17                 CG&E.

18

19   **Q.    WHAT ARE YOUR RECOMMENDATIONS WITH RESPECT TO THESE**

20   **EIGHT ITEMS?**

21

22   A.    In his testimony, David Brown Kinloch has recommended deferring the

23           determination of whether to approve this Application in full or in part until such

24           time as a full investigation has been made into the alternatives available to

25           ULH&P. I join in that recommendation. But, should the Commission choose to

26           approve item nos. 1, 3 and 8 of this application without further investigation into

27           all available alternatives, then I recommend that item nos. 2 and 6 be accepted

28           with modifications that I will describe and that item nos. 4 and 7 be rejected. I

29           cannot make a recommendation on item no. 5 because it is not adequately

30           explained in ULH&P's filing.

31

1 **Q WHAT ARE THE SEVEN CONDITIONS THAT MR. TURNER CLAIMS**  
2 **THAT ULH&P REQUIRES IN ORDER TO IMPLEMENT THE PLANT**  
3 **TRANSFER?**

4  
5 A. At page 15-16 of his prefiled testimony, UHL&P witness Turner lists the  
6 following conditions for the transfer of asset ownership from CG&E to UHL&P:

- 7  
8 1a. That the then current net book value of the plants be included in rate base  
9 in any future rate proceedings;
- 10 1b. That the transaction costs incurred by Cinergy and its subsidiaries for this  
11 transfer be deferred for recovery in ULH&P's future general rate  
12 proceedings;
- 13 2. That the monthly capacity charges in the Back-up Power Sale Agreement  
14 and other agreements between CG&E and ULH&P be included in base  
15 rates in any future general rate proceedings;
- 16 3. That energy charges under the Back-up Agreement be included in the Fuel  
17 Adjustment Clause ("FAC") beginning January 1, 2007;
- 18 4. That all energy transfer charges from CG&E assessed under the Purchase,  
19 Sale and Operation Agreement ("PSOA") be included in the FAC  
20 beginning January 1, 2007;
- 21 5. That the transferred accumulated deferred investment tax credit  
22 ("ADTIC") be amortized over the life of the plants below the line and  
23 excluded from retail ratemaking;
- 24 6. That the accumulated deferred federal and state income taxes transferred  
25 from GC&E to ULH&P not be considered for ratemaking in any future  
26 general rate proceedings; and
- 27 7. That ULH&P be allowed to retain all profits from off-system sales from  
28 the assets being transferred.

29  
30 **Q. PLEASE SUMMARIZE YOUR RECOMMENDATIONS CONCERNING**  
31 **THESE SEVEN CONDITIONS.**

1  
2 A. Again, I recommend further investigation of options available to ULH&P prior to  
3 acceptance of the proposal made in this Application. But, should the Commission  
4 choose to approve the Application in part or in full without further investigation,  
5 then I recommend that condition nos. 1a, 2, 3, 4 be accepted. I recommend that  
6 condition no. 1a be accepted with modifications that I will describe. In  
7 accompanying testimony, Michael J. Majoros, Jr. recommends that condition nos.  
8 5 and 6 be rejected, and I recommend that condition no. 7 be rejected.

9  
10 **Q. ARE THE APPLICATION ITEMS AND MR. TURNER'S CONDITIONS**  
11 **MUTUALLY EXCLUSIVE?**

12  
13 A. No. Several of them are duplicative, that is, they are both Application items and  
14 conditions that Mr. Turner regards as necessary for the implementation of the  
15 asset transfer plan. In those cases, I will address them as Application items and  
16 note that they have already been considered when they come up as conditions of  
17 the transfer plan.

18  
19 **APPLICATION ITEM 1 – CNCP TO TRANSFER PLANTS**

20  
21 **Q. WHAT EVIDENCE DOES THE COMPANY PROVIDE IN SUPPORT OF**  
22 **ITS REQUEST FOR A CPCN TO TRANSFER THREE PLANTS AND TO**  
23 **IMPLEMENT AN ASSET PURCHASE AGREEMENT WITH CG&E?**

24  
25 A. UHL&P witness Diane Jenner presents the results of a series of sensitivity  
26 analyses that she purports to demonstrate that the plant transfer program  
27 embodied in the Company's application is the most cost-effective relative to the  
28 best alternative plans. Her model compared up to 2800 resource expansion plans  
29 involving supply-side management combined with new coal, combustion turbine  
30 and gas-fired combined cycle plants, accompanied by limited power purchases.

1 The model ultimately selected three mixes of new plants and power purchases that  
2 would best serve UHL&P's load over the coming decades.

3  
4 Ms. Jenner then compared the Present Value of Revenue Requirements ("PVRR")  
5 of these three expansion plans with the PVRR of the Company's proposed asset  
6 transfer plan and the PVRR of a full requirements purchased power agreement  
7 ("PPA"). Under this last PPA plan, every hour's load would be acquired at the  
8 then-applicable market price of power.

9  
10 The results of Ms. Jenner's analysis are presented on page 26 of her prefiled  
11 testimony. They demonstrate that under the base assumptions of her analysis, the  
12 Company's proposed asset transfer plan has a PVRR that is \$643.5 million, or  
13 over 16 percent lower than the next most favorable plan. Ms. Jenner then tested  
14 these plans against alternative assumptions as to the price of fuel, the market price  
15 of energy, and load growth. While the differences varied depending on the  
16 assumptions, the Company's asset transfer plan continued to be more favorable  
17 than either the all new construction plans or the full requirements PPA plan.

18  
19 **Q. DO MS. JENNER'S SENSITIVITY STUDIES DEMONSTRATE THAT**  
20 **THE COMPANY'S APPLICATION TO TRANSFER GENERATING**  
21 **ASSETS SHOULD BE APPROVED?**

22  
23 A. No. Ms. Jenner's studies are notable for what they did not study. Ms. Jenner  
24 compared the Company's proposal to only two very limited alternatives. The first  
25 alternative considers only newly constructed generating facilities. This alternative  
26 is almost certain to be less cost-effective than the Company's asset transfer plan  
27 because it surrenders the advantage of "sunk costs" in existing plants, even when  
28 the PVRR incorporates recovery of the undepreciated value of those plants. The  
29 other alternative is a PPA that prices power at the hour market price. This  
30 alternative surrenders the benefit of any long-term commitment of a generating  
31 resource and so exposes ULH&P to the risk of spot market prices.

1  
2 Among the alternatives that Ms. Jenner did not analyze is a continuation of the  
3 present arrangement whereby CG&E supplies ULH&P's full power requirements  
4 at a fixed capacity and a fixed energy rate. While the current contract between  
5 ULH&P and CG&E is due to expire on December 31, 2006, no Company witness  
6 has suggested that it could not be renewed.

7  
8 **Q. DO YOU BELIEVE THAT CONTINUATION OF THE PRESENT PPA**  
9 **WOULD BE THE LEAST COST ALTERNATIVE FOR ULH&P'S**  
10 **POWER SUPPLY?**

11  
12 A. Not necessarily. It is possible that extension of the current contract arrangement  
13 would not yield the lowest PVRR were it compared with the Company's proposed  
14 asset transfer plan. That is because the fixed price full requirements plan passes  
15 back to CG&E the risks of market price fluctuations and of weather-driven load  
16 variations. CG&E would have to build allowances for these risks into its capacity  
17 and energy charges that might drive up the PVRR of this plan.

18  
19 **Q. ARE THERE ALTERNATIVES THAT MIGHT YIELD LOWER COSTS**  
20 **THAN EITHER THE PRESENT PPA OR THE COMPANY'S ASSET**  
21 **TRANSFER PLAN?**

22  
23 A. Possibly. ULH&P and CG&E might agree to a PPA that contains a fixed capacity  
24 charge that would reflect the optimal mix of CG&E's much larger fleet of  
25 generating assets serving UHL&P's load. This fixed capacity charge would be  
26 accompanied by a variable energy charge that would reflect the fuel and variable  
27 operating expenses of the hourly mix of plants and power purchases in CG&E/PSI  
28 power pool.

29  
30 This alternative arrangement would avoid most of the weaker aspects of the  
31 energy transfer and the market price PPA plans, and yet still provide ULH&P

1 with reliable power at a price reflecting the underlying costs of the optimal mix  
2 assets required to provide that power.

3  
4 Compared to the asset transfer plan, this arrangement would avoid the  
5 “lumpiness” problem created by the fact that only three units, with capacities of  
6 500, 414 and 163 MW respectively, would be committed to serving a peak load of  
7 only 800 MW. These units collectively provide 5 percent more capacity than  
8 ULH&P initially requires, and the two baseload units must be backed up by  
9 commitments from CG&E equivalent to their entire capacities. If CG&E were to  
10 commit capacity appropriate for ULH&P’s load out of its much larger fleet of  
11 generating assets, there would be no need for ULH&P to overbuy capacity, nor  
12 would it be necessary for ULH&P to acquire fully redundant backup capacity .

13  
14 Compared to a market price PPA, this arrangement would be less expensive and  
15 much less subject to price fluctuations. Rather than paying the market price of  
16 energy, which presumably equates to the hourly marginal cost of the CG&E/PSI  
17 power pool, ULH&P would pay energy charges reflecting the composite energy  
18 cost of all units in service in each hour: effectively the “embedded” energy cost.  
19 This is a much lower and more stable number than the market price of power.

20  
21 **Q. DO YOU THEREFORE RECOMMEND THAT THE COMMISSION**  
22 **REJECT THE ASSET TRANSFER PLAN IN FAVOR OF THE PPA**  
23 **ARRANGEMENT YOU HAVE JUST DESCRIBED?**

24  
25 A. Not necessarily. The Commission has previously expressed its preference for the  
26 “iron in the ground” alternative. There are certain advantages to this plan that are  
27 unrelated to cost. Specifically, the acquisition by ULH&P of specific generating  
28 assets brings back under the Commission jurisdiction the full provision of electric  
29 power to the Company’s Kentucky ratepayers. The Commission would not have  
30 to rely on the Federal Energy Regulatory Commission (“FERC”) to protect the  
31 interests of Kentucky ratepayers with respect to power supply.

1  
2 This advantage applies not only to the regulation of electric rates but to the  
3 Commission's oversight of the Company's Integrated Resource Plan ("IRP").  
4 Without the generation function under the Commission's authority, the  
5 Commission can oversee only the demand-side aspects of that plan. The supply-  
6 side aspects fall principally under FERC jurisdiction.

7  
8 **Q. WHAT, THEN, IS THE RELEVANCE OF YOUR DISCUSSION OF AN**  
9 **ALTERNATIVE PPA BETWEEN ULH&P AND CG&E?**

10  
11 A. The relevance goes to the Commission's response to the terms and conditions  
12 posed by the Company in its application. ULH&P's application purports to  
13 present an all-or-nothing choice between its asset transfer plan, complete with  
14 conditions, and the alternative of throwing its power supply open to the mercy of  
15 the competitive market for energy. This stark choice completely overlooks the  
16 fact that the source of market-based energy is ULH&P's own parent, CG&E.  
17 ULH&P purports to absolve its parent, CG&E, of any public utility  
18 responsibilities. If ULH&P does not generate electricity for its ratepayers, CG&E  
19 has no responsibility to do so, at least according to ULH&P.

20  
21 Whether and how the Commission can force CG&E to provide power to ULH&P  
22 at cost-based rates is a legal issue which I am not qualified to address. The  
23 resolution of that issue, like the resolution of whether other options are available  
24 to ULH&P, influences the extent to which the Commission should be intimidated  
25 by the terms and conditions in ULH&P's application. Assuming that the  
26 Commission need not believe that unless it accepts all of the conditions spelled  
27 out by ULH&P, the Company's Kentucky ratepayers will lose the protection of  
28 regulated power supply costs, the following review of these terms and conditions  
29 will identify several that should be rejected outright. Such rejection should not be  
30 considered as tantamount to rejection of the entire asset transfer plan.

31

**APPLICATION ITEM 2 – DEFERRAL OF TRANSACTION COSTS**

1  
2  
3 **Q. WHAT ARE THE TRANSACTION COSTS TO WHICH THIS ITEM**  
4 **REFERS?**

5  
6 A. ULH&P President Gregory Ficke states that transaction costs will be incurred by  
7 CG&E and ULH&P in order to effectuate the transfer of assets. CG&E will incur  
8 income and property taxes and financing-related costs related to the redemption of  
9 debt and release of certain assets from its mortgage. ULH&P has already incurred  
10 costs associated with the preparation of this filing, and it anticipates additional  
11 costs relating to tax matters and financing. Mr. Steffan's Attachment JPS-7  
12 presents the Company's estimates of these costs. They come to \$4,865,000.

13  
14 **Q. WHAT TREATMENT DOES THE COMPANY PROPOSE FOR THESE**  
15 **COSTS?**

16  
17 A. ULH&P proposes that these transaction costs, whatever they are, be deferred for  
18 recovery in the next rate case, which presumably would set rates for the period  
19 after January 1, 2007. Although the Company does not say so, I presume that it  
20 would expect to receive compensation for the deferral in the form of a  
21 compounding carrying charge.

22  
23 **Q. WHAT IS YOUR RECOMMENDATION WITH REGARD TO THESE**  
24 **TRANSACTION COSTS?**

25  
26 A. I recommend that these costs be deferred and recovered, but not necessarily until  
27 the next rate case. During the interim between ULH&P's acquisition of the three  
28 plants and the January 1, 2007 resetting of retail rates, the Company will be free  
29 to earn as much from these three plants as it can under the frozen rates. If the  
30 plants generate profits in excess of a reasonable rate of return, then I recommend  
31 that the excess profits be applied against the recovery of transaction costs.

1           Hopefully, this approach will reduce or possibly eliminate the burden of these  
2           costs on ratepayers after January 1, 2007.

3

4   **Q.   HOW WOULD THIS PROPOSAL TO APPLY PLANT PROFITS TO**  
5   **TRANSACTIONS COSTS WORK?**

6

7   A.   The Company would book transaction costs in a deferred asset account exactly as  
8       it proposes. Between the transfer date and the January 1, 2007 rate proceeding  
9       (presumably conducted in 2006), there would be no reduction in this regulatory  
10      asset account. As part of the rate case, the Commission would conduct a  
11      retrospective analysis of the plants' sales and costs, inclusive of a reasonable rate  
12      of return and associated income taxes, to determine whether there were any  
13      excess profits earned during the three-year rate freeze period. The applicable  
14      revenue in this analysis would include both retail revenues and net revenues from  
15      off-system sales.

16

17      To the extent that the Commission finds that the plants generated excess revenue  
18      over their revenue requirement, that excess would be applied to offset the  
19      accumulated transaction costs. If excess profits do not offset the transaction costs,  
20      then the residual unrecovered balance would be amortized into rates over a  
21      reasonable period after January 1, 2007. If the excess profits exceed the  
22      transaction costs, then the deferred asset would be considered fully recovered, and  
23      the Company would be allowed to retain any further excess profits.

24

25      Hopefully, this procedure will minimize or possibly eliminate the need to include  
26      transaction costs in the January 1, 2007 rates.

27

28   **APPLICATION ITEM 3 – WHOLESALE POWER AGREEMENTS**

29

30   **Q.   PLEASE DESCRIBE THE WHOLESALE POWER AGREEMENTS**  
31   **INCLUDED IN THIS ITEM.**

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A. There are two wholesale power agreements between ULH&P and CG&E. The first is the Back-up Power Sales Agreement (“Back-up PSA”) that commits CG&E to provide back-up power to UHL&P whenever there are planned or unplanned outages at the East Bend or Miami Fort 6 plants. The second is the Purchase, Sales and Operation Agreement (“PSOA”) that accommodates joint economic dispatch of UHL&P’s plants in conjunction with the fleet of plants operated by CG&E and PSI Energy.

**Q. WHAT IS YOUR RECOMMENDATION WITH RESPECT TO THIS ITEM?**

A. These wholesale power agreements are necessary to ensure the reliability of power supply to UHL&P’s Kentucky customers at the lowest cost possible within the construct of the transferred asset plan. Accordingly, they probably should be approved, although not necessarily by this Commission. The ultimate authority to approve these contracts lies with FERC, not this Commission. Unless the Commission and its staff can conduct an informed and expert examination of these contracts, their approval should probably be left to FERC, which has the necessary experience and expertise to evaluate wholesale contracts.

**APPLICATION ITEM 4 – RETENTION OF PROFITS FROM OFF-SYSTEM SALES**

**Q. WHAT JUSTIFICATION DOES UHL&P OFFER FOR THIS ITEM?**

A. Mr. Turner testifies that this item is appropriate “because of the significant value that ULH&P’s customers are realizing in acquiring ‘iron in the ground’ at a net book value that is less than potential market value.”

1 **Q. IS THIS A VALID BASIS FOR ALLOWING ULH&P TO RETAIN OFF-**  
2 **SYSTEM PROFITS?**

3  
4 A. No, it is not. In return for surrendering these plants to regulation at net book  
5 value, CG&E gets something in return. That is the assurance provided by  
6 regulation that all expenses associated with these plants will be covered, that  
7 every cent of investment in them will be recaptured, and that in the meantime they  
8 will yield fair and reasonable after-tax return on all outstanding investment.

9  
10 These are assurances that unregulated plants do not have, and they should not be  
11 taken lightly. In recent months, Mirant and NRG Energy have declared Chapter  
12 11 bankruptcy, even though they both own “hard” generating assets. The much  
13 reduced risk of regulated generation relative to unregulated merchant generation  
14 justifies some apparent sacrifice on the part of CG&E. In this case, the sacrifice  
15 should take the form of foregone sale value from its UHL&P plants.

16  
17 **Q. SHOULD THIS ITEM OF THE APPLICATION BE APPROVED?**

18  
19 A. Absolutely not. UHL&P will be asking its retail customers to compensate it for  
20 all expense associated with these plants, for the recovery of capital, and for a fair  
21 and reasonable post-tax rate of return. In short, ratepayers will fully support these  
22 plants. For this reason, ratepayers should be entitled to the earnings these plants  
23 generate. If ULH&P were to retain the profits from off-system sales from these  
24 plants, then ULH&P should be obliged to cover a portion of the fixed operating  
25 and capital costs of the plants. Otherwise, the arrangement is tantamount to  
26 granting the Company a supra-competitive rate of return.

27  
28 Additionally, the arrangement would be asymmetrical. UHL&P expects  
29 ratepayers to absorb the cost of off-system purchases when CG&E’s generating  
30 resources are short, but it proposes to pocket the profits from off-system sales

1 when CG&E is long. This is clearly a one-sided, heads-I-win-tails-you-lose  
2 arrangement that the Commission should reject outright.

3  
4 **Q. SHOULD UHL&P RECEIVE NO PROFIT WHATEVER FROM OFF-  
5 SYSTEM SALES?**

6  
7 A. No. UHL&P should have some incentive to maximize the utilization of these  
8 plants, and to provide this incentive, it should be allowed to retain a percentage of  
9 the profits from off-system sales. However, given that retail ratepayers are  
10 covering all the costs of these plants, that percentage should be quite small, on the  
11 order of 10 percent. The remaining 90 percent should go to ULH&P's ratepayers.

12  
13 **APPLICATION ITEM 5 – DEVIATION FROM AFFILIATE TRANSACTION**  
14 **PRICING REQUIREMENTS**

15  
16 **Q. WHAT IS THIS ITEM?**

17  
18 A. Mr. Ficke describes this item as a request for “a deviation from the affiliate  
19 transaction pricing requirements embodied in Chapter 278 of the Kentucky  
20 Revised Statutes for certain fuel- related affiliate agreements.”

21  
22 **Q. DOES ANY UHL&P WITNESS DISCUSS THIS ITEM?**

23  
24 A. No. Mr. Mason describes CC&G's coal purchasing procedures and Mr. Roebel  
25 discusses the purchase of gas and propane. Neither these witnesses nor any other  
26 discuss the need to deviate from Kentucky's affiliate transaction requirements.

27  
28 **Q. WHAT IS YOUR RECOMMENDATION REGARDING THIS ITEM?**

29  
30 A. I have none at this point. However, absent further explanation from the  
31 Company, the Commission should dismiss this item.

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**APPLICATION ITEM 6 – FILING OF IRP**

**Q. PLEASE DESCRIBE THIS ITEM.**

A. UHL&P requests that the Commission prescribe that the next Integrated Resource Plan (“IRP”) be filed within three years of the Commission’s final order in this proceeding.

**Q. WHY IS THIS ITEM NECESSARY?**

A. As a condition of its approval of ULH&P’s current power sales agreement with CG&E, the Commission prescribed that the Company file a stand-alone IRP by June 2004. ULH&P now requests that this filing be deferred until three years after the Commission’s decision in this case, which would be a deferral of about 2½ years.

**Q. WHAT IS YOUR RECOMMEND WITH RESPECT TO THIS ITEM?**

A. I agree that if ULH&P will commit to freezing its generation and transmission rates until 2007, the need for a revised IRP diminishes. However, the deferral requested by the Company is too long. A new IRP should be produced and reviewed by the Commission prior to the rate case that will commence in 2006 to set rates on January 1, 2007. That is because the IRP affects some elements in the rate case, such as the recovery of demand-side management and conservation costs. The Company’s proposed deferral would have the IRP filed in late 2006, after the rate case is well under way. Not only would this filing be too late to be considered in the rate case, but it is unlikely that the Commission would be able to give the IRP the attention it deserves if it is simultaneously conducting a major ULH&P rate case.

1           Accordingly, I recommend that the new IRP be filed by June 31, 2005. That  
2           would allow it to be reviewed prior to the initiation of the rate case.

3  
4           **APPLICATION ITEM 7 – TRANSFER OF PLANTS BACK TO CG&E**

5  
6           **Q.     PLEASE DESCRIBE THIS ITEM.**

7  
8           A.     UHL&P proposes that if it does not receive the rate treatment proposed by Mr.  
9           Turner in the 2006 rate case, the Company be permitted to transfer the plants back  
10          to CG&E.

11  
12          **Q.     WHAT IS YOUR RESPONSE TO THIS PROPOSAL?**

13  
14          This proposal should be rejected. It appears that UHL&P does not trust the  
15          Commission to keep its word. Even if the Commission provides the requested  
16          assurances in this proceeding that the net book value of the plants, the costs of the  
17          power purchase agreements, and the transaction costs will all be incorporated into  
18          the revenue requirement in the next rate case, the Company apparently anticipates  
19          that the Commission will forsake those commitments when it comes to setting  
20          rates for January 1, 2007. Against that possibility, the Company would like the  
21          opportunity to transfer the plants back to CG&E.

22  
23          This provision is altogether unnecessary. While it is true the current Commission  
24          cannot bind future Commissions, it is inconceivable that the 2006 Commission  
25          would disregard commitments made in this proceeding. The regulatory system is  
26          filled with commitments from one period to another. Many “regulatory assets”  
27          consist of expenses incurred by utilities in one period and recovered from  
28          ratepayers in another. All utility investment is essentially made in the expectation  
29          that regulators will permit recovery of and on the capital invested over the future  
30          life of the plant.

31

1           Moreover, the Company has not identified who should determine whether the  
2           Commission's commitments are fulfilled or broken. If this provision is adopted,  
3           then ULH&P could have effective veto power over the Commission's January 1,  
4           2007 rate award. If the Company does not like the Commission's decision, it will  
5           switch its plants back to CG&E, and the Commission will have to live with  
6           whatever power purchase arrangement the two affiliated companies come up  
7           with.

8  
9           The Company must make its judgment whether to proceed with the asset transfer  
10          based on the results of this proceeding. If it finds the Commission's commitments  
11          acceptable, then it should proceed with the transaction trusting that the  
12          Commission will keep its word. If the Commission's response in this case is not  
13          to the Company's liking, then it should withdraw its application. It should not be  
14          allowed to await the 2006 rate case to decide whether it wishes to change its  
15          mind.

16  
17          I recommend that this provision be rejected.

18  
19          **APPLICATION ITEM 8 – TERMINATION OF THE EXISTING PPA**

20  
21          **Q.     PLEASE DESCRIBE THIS ITEM.**

22  
23          A.     The existing power purchase agreement is based on the proposition that CG&E  
24          provides all power supply to ULH&P. This condition will not exist when the  
25          plants are transferred. For this reason the Company requests that the current PPA  
26          be terminated.

27  
28          **Q.     DO YOU RECOMMEND THAT THIS ITEM BE ACCEPTED?**

29  
30          A.     If the transfer of the pants is approved, I do.

31

1 **CONDITION NO 1a – NET BOOK COST IN THE RATE BASE**

2

3 **Q. PLEASE DESCRIBE THIS CONDITION.**

4

5 A. Mr. Turner states that as a condition for the transfer of the plants from CG&E to  
6 ULH&P, the net book value of those plants must be recognized and incorporated  
7 into the rate base in any future rate proceedings.

8

9 **Q. WHAT IS YOUR RESPONSE TO THIS CONDITION?**

10

11 A. As a general proposition, the Company's request is reasonable. The conventional  
12 regulatory treatment of generating plants -- indeed, all utility plant -- is to  
13 incorporate them into the rate base at net book value. For this reason, I  
14 recommend that this condition be accepted.

15

16 In making this recommendation, I do not necessarily endorse the Company's  
17 perception of what constitutes net book value. In particular, there is a  
18 considerable difference of opinion as to whether unamortized investment tax  
19 credits and accumulated deferred income taxes should be netted against original  
20 investment in developing net book value. Acceptance of this condition should not  
21 be presumed to be a prejudgment of these issues.

22

23 **CONDITION 1b – RECOVERY OF TRANSACTION COSTS**

24

25 **Q. PLEASE DESCRIBE THIS CONDITION.**

26

27 A. Mr. Turner states that, as a condition of the transfer of the plants, the Company  
28 would like a commitment from the Commission that transaction costs associated  
29 with the transfer will be deferred for recovery in the next general rate case.

30

31 **Q. HAVE YOU ALREADY ADDRESSED THIS ISSUE?**

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A. Yes, I have. I have recommended that this condition be accepted with the proviso that any excess profits generated by the plants during the rate freeze period be applied against the deferred transaction costs.

**CONDITION NO. 2 – INCLUSION OF PPA CAPACITY CHARGES IN BASE RATES**

**Q. PLEASE DESCRIBE THIS CONDITION.**

A. Mr. Turner states that, as a condition of the asset transfer, the Company would like a commitment from the Commission that the capacity charges contained in the FERC-approved back-up power agreement and the PSOA should be incorporated into base retail rates in the next rate proceeding.

**Q. IS THIS CONDITION REASONABLE?**

A. Yes, it is. Capacity charges represent resource commitments by the utility to ratepayers. They are fixed over a period of time and do not vary with market conditions. They are therefore appropriate for inclusion in base rates. It is my understanding that if they are approved by FERC, then this Commission has no authority to modify or reject them.

**CONDITION NO. 3 – INCLUSION OF BACK-UP ENERGY IN THE FAC**

**Q. PLEASE DESCRIBE THIS CONDITION.**

A. Mr. Turner would like a commitment from the Commission that the energy charges in the back-up purchase power agreement with CG&E will be incorporated into ULH&P's Fuel Adjustment Charge when the Commission sets rates for January 1, 2007.

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**Q. IS THIS A REASONABLE CONDITION?**

A. Yes, it is. Back-up energy will be used when the ULH&P generating plants are unavailable. This energy is thus a substitute for that provided by ULH&P's own plants. Since the variable cost of ULH&P's energy will be collected through the Fuel Adjustment Charge, this substitute energy cost should be recovered in that charge as well.

**CONDITION NO. 4 – INCLUSION OF PSOA ENERGY IN THE FAC**

**Q. PLEASE DESCRIBE THIS CONDITION.**

A. Mr. Turner would like a commitment from the Commission that all costs of energy transfers from CG&E under the PSOA on a going forward basis from January 1, 2007 will be recovered in ULH&P's Fuel Adjustment Charge.

**Q. IS THIS A REASONABLE CONDITION?**

A. It is, provided that credits are passed through the Fuel Adjustment Charge as well. As described by Mr. McCarthy, the PSOA contains provisions that "settle" the cost of power among the various members of the CG&E/PSI power pool. When ULH&P is receiving power from the pool member at a cost less than that of its generating units, it is obliged to pay the supplier of that power the difference between its cost and that of the ULH&P unit that would have been dispatched were the alternative power not available. Conversely, if ULH&P's units are providing power to another pool member at a cost less than that member's next most efficient resource, then ULH&P receives compensation for the cost difference. If it is appropriate to recover ULH&P payments under this arrangement in the Fuel Adjustment Charge, then it is also appropriate to credit ULH&P's ratepayers for all receipts as well.

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With this proviso, I find this condition to be reasonable.

**CONDITION NO. 5 – EXLUSION OF ADTIC FROM RATEMAKING**

**Q. PLEASE DESCRIBE THIS CONDITION.**

A. Mr. Turner would like a commitment from the Commission that the transferred Accumulated Deferred Income Tax Credit (“ADTIC”) balance relating to the plants will be amortized on ULH&P’s books “below the line” and excluded from ratemaking in all future rate cases.

**Q. WILL YOU ADDRESS THIS CONDITION?**

A. No. This condition is addressed in the accompanying testimony of Michael J. Majoros, Jr.

**Q. WHAT DOES MR. MAJOROS RECOMMEND?**

A. Mr. Majoros recommends that this condition be rejected.

**CONDITION NO. 6 – EXLUSION OF DEFERRED TAXES FROM RATEMAKING**

**Q. PLEASE DESCRIBE THIS CONDITION.**

A. Mr. Turner would like a commitment from the Commission that the transferred Accumulated Deferred Income Taxes relating to the plants will be excluded from ratemaking in all future rate cases.

1 **Q. WILL YOU ADDRESS THIS CONDITION?**

2

3 A. No. This condition is addressed in the accompanying testimony of Michael J.  
4 Majoros, Jr.

5

6 **Q. WHAT DOES MR. MAJOROS RECOMMEND?**

7

8 A. Mr. Majoros recommends that this condition be rejected.

9

10 **CONDITION NO. 7 – RETENTION OF OFF-SYSTEM SALES PROFITS**

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12 **Q. PLEASE DESCRIBE THIS CONDITION.**

13

14 A. Mr. Turner would like a commitment from the Commission that ULH&P will be  
15 allowed to retain all profits from off-system sales of power generated by the  
16 ULH&P plants.

17

18 **Q. HAVE YOU ALREADY ADDRESSED THIS CONDITION?**

19

20 A. Yes, I have in connection with Application Item No. 4, which is the same request.

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22 **Q. WHAT WAS YOUR RECOMMENDATION?**

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24 A. I recommended that this condition be rejected.

25

26 **Q. DOES THIS COMPLETE YOUR TESTIMONY?**

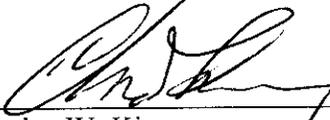
27

28 A. Yes, it does.

Washington, )  
: ss.  
District of Columbia )

**AFFIDAVIT**

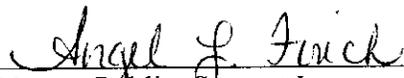
I, Charles W. King, hereby swear and affirm that the foregoing testimony and any accompanying exhibits were prepared by me or under my direction and that the information contained therein is, to the best of my information and belief, true and correct.

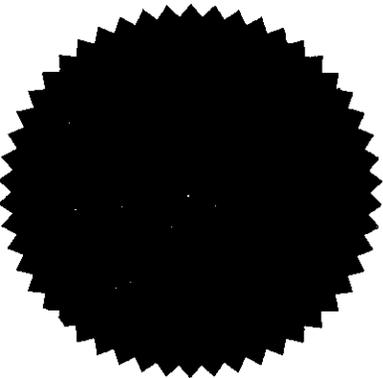
  
\_\_\_\_\_  
Charles W. King

Washington,  
District of Columbia

Subscribed and sworn to before me this 25<sup>th</sup> day of September, 2003, by  
Charles W. King.

My Commission Expires: March 14, 2004

  
\_\_\_\_\_  
Notary Public, State at Large



### Experience

#### **Snavely King Majoros O'Connor & Lee, Inc. Washington, DC**

***President (1989 to Present)  
Vice President (1970 - 1989)***

Mr. King, a founder of the firm and acknowledged authority on regulatory economics, brings over thirty years of experience in economic consulting to his direction of the firm's work in transportation, utility and telecommunications economics.

Mr. King has appeared as an expert witness on over 300 separate occasions before more than thirty state and nine U.S. Canadian federal regulatory agencies, presenting testimony on rate base calculations, rate of return, rate design, costing methodology, depreciation market forecasting, and ratemaking principles. Mr. King has also testified before House and Senate Committees on energy and telecommunications legislation pending before the U.S. Congress.

In telecommunications, Mr. King has testified before the Federal Communications Commission on a number of policy issues, service authorization, competitive impacts, video dialtone, and prescription of interstate depreciation rates. Before state regulatory bodies, he has presented testimony in proceedings on intrastate rates, earnings and depreciation. Mr. King recently directed analyses of the prices of services under Federal Government's FTS2000 long distance system.

In addition to his appearances as a witness in judicial and administrative proceedings, Mr. King has negotiated settlements among private parties and between private parties and regulatory offices. Mr. King also has directed depreciation studies, investment cost benefit analyses, demand forecasts, cost allocation studies and antitrust damage calculations.

In Canada, Mr. King designed and directed an extended inquiry into the principles and procedures for regulating the telecommunication carriers subject to the jurisdiction of the Canadian Transport Commission. He also was the principal investigator in the Canadian Transport Commission's comprehensive review of rail costing procedures.

#### **EBS Management Consultants, Inc., Washington, DC**

***Director, Economic Development Department  
(1968-1970)***

Mr. King organized and directed a five-person staff of economists performing research, evaluation, and planning relating to economic development of depressed areas and communities within the U.S. Most of this work was on behalf of federal, state, and municipal agencies responsible for community or regional economic development.

***Principal Consultant (1966-1968)***

Mr. King conducted research on a broad range of economic topics, including transportation, regional economic development, communications, and physical distribution.

#### **W.B. Saunders & Company, Inc., Washington, DC**

***Staff Economist (1962-1966)***

For this economic consulting firm, which later merged with EBS Management Consultants, Inc., Mr. King engaged in numerous research efforts relating primarily to economic development and transportation.

#### **U.S. Bureau of the Budget, Office of Statistical Standards**

***Analytical Statistician (1961-1962)***

Mr. King was responsible for the review of all federal statistical and data-gathering programs relating to transportation.

### Education

*Washington & Lee University, B.A. in Economics*

*The George Washington University, M.A. in  
Government Economic Policy*

CHARLES W. KING  
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Suite 410  
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(202) 371-1111  
Appearances before State Regulatory Agencies

State	Electric, Gas, Water Utility Cases			Date of Cross-Examination
	Client	Case		
		Case Number	Utility	
AK	Exxon USA	P-89-1,2	Trans Alaska Pipeline System	October 18, 1990
AZ	Arizona Corporation Commission Arizona Retailers Association	U-1345-I U-1345-II	Arizona Public Service Co. Arizona Public Service Co.	December 16, 1980 January 15, 1981
CA	California Retailers Association California Retailers Association California Retailers Association California Retailers & California Manufacturers California Retailers Association	57666 57602 59351 59351 61138	Pacific Gas & Electric Co. Southern California Edison Pacific Gas & Electric Co. Southern California Edison Southern California Edison	March 6, 1978 April 25, 1978 June 12, 1981 May 20, 1982 May 28, 1982
CO	U. S. Department of Defense J.C. Penny Company U.S. Department of Defense U. S. Department of Defense U.S. Department of Defense U.S. Department of Defense U.S. Department of Defense	I&S 1100 5693 I&S 1339 I&S 1540 C. Council C. Council C. Council C. Council	Colorado Springs (Elec) All Electric Utilities Colorado Springs DPU (Gas) Colorado Springs DPU (Gas) Colorado Springs DPU (Gas) Colorado Springs DPU (Elec) Colorado Springs DPU (Elec) Colorado Springs DPU (Elec)	June 14, 1977 March 8, 1978 October 18, 1979 February 9, 1982 September 30, 1984 June 6, 1985 May 19, 1986 June 30, 1987
CT	Retailers Merchants Association Division of Consumer Counsel Public Utilities Control Auto Division of Consumer Counsel Division of Consumer Counsel Division of Consumer Counsel Coalition of Hotels, Alloys & Retailers Coalition of Hotels, Alloys & Retailers	72-0204 76-0604.5 78-0303 80-0403.4 81-0413 81-0602.4 82-0701 85-10-22 87-07-01	Various Electric Utilities CL&P and HELCO Bridgeport Hydraulic Co. CL&P and HELCO United Illuminating Company CL&P and HELCO CL&P CL&P CL&P	July 22, 1976 November 10, 1977 (none) August 11, 1980 July 20, 1981 October 5, 1981 September 28, 1982 (none) April 25, 1988

CHAI, W. KING  
Appearances before State Regulatory Agencies

State	Electric, Gas, Water Utility Cases			Date of Cross-Examination
	Client	Case		
		Case Number	Utility	
DC	D.C. People's Counsel	685	Potomac Electric Power Company	March 6, 1978 (none)
	D.C. People's Counsel	715	Potomac Electric Power Company	April 4, 1980
	D.C. People's Counsel	725	Potomac Electric Power Company	January 1, 1981
	D.C. People's Counsel	737	Potomac Electric Power Company	June 26, 1981
	Washington Metro Area Transit Authority	748	Potomac Electric Power Company	December 15, 1981
	Washington Metro Area Transit Authority	785	Potomac Electric Power Company	September 21, 1982
	D.C. People's Counsel	759	Potomac Electric Power Company	March 29, 1984
	Washington Metro Area Transit Authority	685 Remand	Potomac Electric Power Company	June 10, 1985
	D.C. People's Counsel	905	Potomac Electric Power Company	August 20, 1991
	D.C. People's Counsel	912	Potomac Electric Power Company	May 7, 1992
	D.C. People's Counsel	834, III	Potomac Electric Power Company	May 22, 1992
	D.C. People's Counsel	917	Potomac Electric Power Company	September 24, 1992
	D.C. People's Counsel	922	Washington Gas Light Company	June 15, 1993
	D.C. People's Counsel	929	Potomac Electric Power Company	December 16, 1993
	D.C. People's Counsel	934	Washington Gas Light Company	Filed April 22, 1994
	D.C. People's Counsel	939	Potomac Electric Power Company	March 16, 1995
	D.C. People's Counsel	917	Potomac Electric Power Company	April 16, 1995
	D.C. People's Counsel	951	Potomac Electric Power Company	February 20, 1997
	D.C. People's Counsel	945	Potomac Electric Power Company	September 29, 1999
	D.C. People's Counsel	847	Washington Gas Light Company	June 27, 2001
DE	DPSC Staff	94-164	Artesian Water Company	(none)
	DPSC Staff	94-149	Wilmington Suburban Water Company	March 10, 1995
FL	Florida Retail Federation	790593-EU	All Electric Utilities	March 5, 1981
	Florida Retail Federation	810002-EU	Florida Power and Light Company	July 23, 1981
	Florida Retail Federation	820097-EU	Florida Power and Light Company	September 22, 1982
	Florida Retail Federation	820097-EU	Florida Power and Light Company	April 11, 1983
	Florida Retail Federation	830012-EU	Tampa Electric Company	August 19, 1983
	Florida Retail Federation	830465-EI	Florida Power and Light Company	April 19, 1984
	Florida Retail Federation	830465-EI	Tampa Electric Company	(none)
	Georgia Retail Federation	3270-U	Georgia Power Company	September 3, 1981
GA	Georgia Public Service Commission	4007-U	Georgia Power Company	August 21, 1991
	Georgia Public Service Commission	4384-U	All Electric Utilities	August 1, 1993
	Georgia Public Service Commission	4755-U	Georgia Power Company	January 25, 1994
	Georgia Public Service Commission	4697-U	All Utilities	May 10, 1994
	Georgia Public Service Commission	9355-U	Georgia Power Company	November 4, 1998
	Public Utilities Department Hawaii Consumer Advocate	2793 4536	All Electric Utilities Hawaiian Electric Company	February 14, 1978 February 1, 1983

CHAHN, W. KING  
Appearances before State Regulatory Agencies

State	Electric, Gas, Water Utility Cases			Date of Cross-Examination
	Client	Case		
		Case Number	Utility	
IL	Illinois Retail Merchants Association/ Chicago Bldg. Mgrs. Association Illinois Retail Merchants Association/ Chicago Bldg. Mgrs. Association	76-0698	Commonwealth Edison	June 22, 1977
		76-0568	All Electric Utilities	(none)
		80-0546	Commonwealth Edison	March 5, 1981
		82-0026	Commonwealth Edison	July 22, 1982
		83-0537	Commonwealth Edison	March 19, 1984
		87-0427	Commonwealth Edison	March/April 22, 1988
		90-0169	Commonwealth Edison	October 29, 1990
IN	Indiana Retail Council Indiana Retail Council Indiana Retail Council	35780-S2 35780-S1 36318	N. Ind. Public Service co. Public Service of Indiana Public Service of Indiana	June 1, 1980 October 15, 1980 May 4, 1982
		115,379-U	All Kansas Utilities	January 22, 1981
KY	Seven Kentucky Retailers Kentucky Cable Telecommunications Assn. Kentucky Cable Telecommunications Assn.	7310 2000-414 2000-39	Louisville Gas & Electric Co. Blue Grass Energy Cooperative Cumberland Valley Electric, Inc.	April 25, 1979 January 11, 2001 January 11, 2001
		20279 557/558 957 1300 85-270	Western Massachusetts Electric Western Massachusetts Electric Western Massachusetts Electric Western Massachusetts Electric Western Massachusetts Electric	March 19, 1980 May 14, 1981 March 9, 1982 January 1, 1983 March 26, 1986
MD	Maryland People's Counsel Maryland People's Counsel Maryland People's Counsel	6977 6814 6807	Washington Gas & Light Company Potomac Electric Power Company All Electric Utilities	September 17, 1976 September 1, 1977

CHAHAL, W. KING  
Appearances before State Regulatory Agencies

State	Electric, Gas, Water Utility Cases			Date of Cross-Examination
	Client	Case		
		Case Number	Utility	
MD	Maryland People's Counsel Maryland People's Counsel Maryland People's Counsel Maryland People's Counsel Maryland People's Counsel Maryland People's Counsel Retail Merchants of Baltimore Maryland People's Counsel Maryland People's Counsel Maryland People's Counsel Maryland People's Counsel Organization of Consumer Justice Maryland People's Counsel Maryland People's Counsel Retail Merchants of Baltimore Genstar Stone Products, et al. Industrial Intervenor Maryland People's Counsel	6882	Baltimore Gas & Electric Company	(none)
		6985	Baltimore Gas & Electric Company	September 28, 1976
		7070	Baltimore Gas & Electric Company	December 20, 1976
		7149	Potomac Electric Power Company	April 18, 1978
		7163	All Electric Utilities	January 17, 1979
		7236	Delmarva Power & Light Company	October 23, 1978
		7397	Baltimore Gas & Electric Company	June 20, 1980
		7427	Delmarva Power & Light Company	September 8, 1980
		7574	Baltimore Gas & Electric Company	December 2, 1981
		7597	Potomac Electric Power Company	February 18, 1982
		7604	Potomac Electric Power Company	April 20, 1982
		7588	Baltimore Gas & Electric Company	October 19, 1982
		7663	Potomac Electric Power Company	November 22, 1982
		7685	Baltimore Gas & Electric Company	April 12, 1983
		7878	Potomac Electric Power Company	December 9, 1985
		7878	Potomac Electric Power Company	June 28/July 1986
		7983	Baltimore Gas & Electric Company	March 4, 1987
MI	General Services Administration Michigan Attorney General Michigan Attorney General	U-10102	Detroit Edison Company	March 22, 1993
		U-11722	Detroit Edison Company	November 6, 1998
		U-11772	Consumers Energy/Detroit Edison	November 16, 1998
		U-11495	Detroit Edison Company	December 8, 1999
		U-11956	Consumer Energy/Detroit Edison	December 15, 1999
		U-12505	Consumers Energy Company	September 7, 2000
		U-12478	Detroit Edison Company	October 5, 2000
		U-12639	Consumers Energy/Detroit Edison	July 18, 2001
		U-13000	Consumers Energy Company	January 29, 2002
		EOO2/6R-77-611	Northern States Power	1979
MN	Minnesota Retail Federation			
MO	Missouri Retailers Association	EO-78-161	Kansas City Power & Light Company	February 19, 1981
NC	North Carolina Merchants Association	E-100	All Electric Utilities	December 18, 1975
ND	North Dakota Public Service Commission North Dakota Public Service Commission	PU-400-00-521	Xcel Energy, Inc.	April 20, 2001
		PU-399-01-786	Monatan-Dakota Utilities	February 25, 2002
NH	Business & Industry Association of N.H. Business & Industry Association of N.H. Business & Industry Association of N.H.	79-187-II	Public Service of N.H.	February 6, 1981
		80-260	Public Service of N.H.	February 5, 1981
		82-333	Public Service of N.H.	November 2, 1983

Electric, Gas, Water Utility Cases			Date of Cross-Examination	
State	Client	Case		
		Case Number	Utility	
NJ	Dept. of Public Advocate Dept. of Public Advocate N.J. Retail Merchants Association Department of Public Advocate Resorts International Hotel, Inc. Dept. of Public Advocate Dept. of Public Advocate Dover Township Fire Chiefs	761-8	Public Service Electric & Gas	January 18, 1977
		7911-951	Atlantic City Electric Co.	April 21, 1980
		803-151	All New Jersey Utilities	March 31, 1981
		815-459	N.J. Natural Gas Company	(none)
		8011-827	Atlantic City Sewerage Co.	(none)
NY	N.Y. Council of Retail Merchants Metropolitan N.Y. Retail Council Metropolitan N.Y. Retail Council N.Y. Metro. Transit Authority	822-116	Atlantic City Electric Co.	August 11, 1982
		355-87	Elizabethtown Gas	June 9, 1987
		88-080967	Tom's River Water Company	February 22, 1989
		26806	All Electric Utilities	February 3, 1976
OH	Ohio Council of Retail Association Ohio Council of Retail Association	27029	Consolidated Edison Company	(none)
		27136	Long Island Lighting Company	July 1, 1977
		27353	Consolidated Edison Company	September 5, 1980
PA	Pennsylvania Retail Association Southeastern Pa. Transp. Authority Eastern Penn Energy Users Group Eastern Penn Energy Association Penn Business Utility User Group Pennsylvania Office of Consumer Advocate	88-170-EL	Cleveland Elec. Illuminating	(none)
		83-1529-EL	Cincinnati Gas & Electric	February 15, 1992
TX	Houston Retailers Association Houston Retailers Association Cities for Fair Utility Rates	76-PRMD-7	All Electric Utilities	September 7, 1977
		R-811626	Philadelphia Electric Company	December 11, 1981
		R-822169	Penn. Power & Light Company	March/April 1983
		R-842651	Penn. Power & Light Company	December 3, 1984
		R-850152	Philadelphia Electric Company	February 19, 1986
		R-00016339	Pennsylvania-American Water Co.	September 19, 2001
		5779	Houston Lighting Company	October 19, 1984
		6765	Houston Lighting Company	September 25, 1986
		8425/8431	Houston Lighting Company	April 25, 1989

**CHARLES W. KING**  
**Appearances before State Regulatory Agencies**

State	Electric, Gas, Water Utility Cases			Date of Cross-Examination
	Client	Case		
		Case Number	Utility	
UT	Div. Of Public Utilities Dept of Commerce	98-2035-33	Pacific Corp	Filed August 16, Sept 22, 1999
VA	Consumer Congress of Virginia Consumer Congress of Virginia Va. Business Committee on Energy Virginia Pipe Trades Council	19426 19960 PUE 7900012 PUE 8900051	Virginia Electric Power Company Virginia Electric Power Company Virginia Electric Power Company Old Dominion Electric Corp. &	July 1, 1975 September 19, 1978 February 25, 1981 October 31, 1989
WI	Wisconsin Merchants Federation	6630-ER-2	Wisconsin Electric Power Company	May 15, 1978

CHARLES W. KING  
Appearances before State Regulatory Agencies

State	Telecommunications Cases			Date of Cross-Examination
	Client	Case		
		Case Number	Utility	
AL	U.S. Department of Defense	24472	All Telephone Companies	June 14, 1995
AZ	Arizona Burglar & Fire Alarm Association	9981-E-1051-80-64	Mountain State Telephone	(none)
	Federal Executive Agencies U.S. Department of Defense	E-1051-88-146 T-01051B-99-0105	Mountain State Telephone US WEST Communications	(none) Filed July 26, Sept 8, 2000
CA	Western Burglar & Fire Alarm Association	59849	Pacific Telephone & Telegraph	March 25, 1981
	Western Burglar & Fire Alarm Association	5984cont.	Pacific Telephone & Telegraph	June 23, 1982
	Western Burglar & Fire Alarm Association	A83-01-22	Pacific Telephone & Telegraph	June 29, 1983
	Western Burglar & Fire Alarm Association	A83-02-02	General Telephone of California	January 17, 1984
	Western Burglar & Fire Alarm Association	A82-11-07	Pacific Telephone & Telegraph	Jan. 18, Oct. 31 November 28, 1984
	Western Burglar & Fire Alarm Association	A85-01-034	Pacific Telephone & Telegraph	June 4, 1985
	Western Burglar & Fire Alarm Association	A87-01-02	General Telephone of California	October 2, 1986
	Western Burglar & Fire Alarm Association	A88-07-17019	Pac. Bell Tel. & GTE of CA.	October 22, 1987
	California Cellular Resellers	A.88-11-1040	All Cellular Carriers	January 23, 1989
	Federal Executive Agencies	1.87-11-033	All Telephone Companies	August 11, 1989
CA	California Cellular Resellers	1.88-11-040	All Cellular Carriers	March 6-7, 1991
	Cellular Services, Inc. Federal Executive Agencies	1.88-11-040 A92-05-004	All Cellular Carriers Pacific Telephone & Telegraph	August 19, 1991 October 3, 1991 June 9, 1993
CO	U.S. Department of Defense	I&S 717	Mountain Bell Telephone Company	1972
	U.S. Department of Defense	I&S 1700	Mountain Bell Telephone Company	(none)
	U.S. Department of Defense	Appl.	Mountain Bell Telephone Company	September 18, 1986
	U.S. Department of Defense	I&S 1766	Mountain Bell Telephone Company	November 28, 1988
	Colorado Municipal League	Appl 36883	Mountain Bell Telephone Company	December 13, 1988
	U.S. Department of Defense	I&S 891-082T	U.S. West Communications	February 21, 1990
	U.S. Department of Defense	905-544T	U.S. West Communications	July 17, 1991
	U.S. Department of Defense	90A-665T	U.S. West Communications	October 23, 1991
	U.S. Department of Defense	92M-039T	U.S. West Communications	February 24-24, 1992
	U.S. Department of Defense	92S-229T	U.S. West Communications	July 30-31, 1992
U.S. Department of Defense	90A-665T	U.S. West Communications	November 6, 1996	
AT&T	96S-331T	U.S. West Communications	April 17, 1997	

CHAHAL... W. KING  
Appearances before State Regulatory Agencies

State	Telecommunications Cases			Date of Cross-Examination
	Client	Case		
		Case Number	Utility	
CT	Connecticut Consumer Counsel CT Cellular Resellers Assn. CT Cellular Resellers Coalition AT&T Connecticut Consumer Counsel Connecticut Consumer Counsel	770526	Southern New England Telephone Co.	November 10, 1977
		89-12-05 94-03-27 AT&T/SNET Arbitration 96-04-07 00-07-17	Southern New England Telephone Co. Springwich Cellular/Bell Atlantic Southern New England Telephone Co. Southern New England Telephone Co. Southern New England Telephone Co.	(none) May 16, June, 1994 Filed October 28, 1996 February 10, 1998 December 5, 2000
DC	D.C. People's Counsel D.C. People's Counsel General Services Administration General Services Administration General Services Administration General Services Administration	729	Chesapeake & Potomac Tel. Co.	May 13, 1980
		798	Chesapeake & Potomac Tel. Co.	July 18, 1983
		827	Chesapeake & Potomac Tel. Co.	May 7, 1985
		854	Chesapeake & Potomac Tel. Co.	April 16, 1987
		850 926	Chesapeake & Potomac Tel. Co. Chesapeake & Potomac Tel. Co.	October 7, 1991 October 7, 1993
DE	Public Service Commission Federal Executive Agencies Public Service Commission	Depr. Repr 86-20 Depr. Repr	Diamond State Telephone Co. Diamond State Telephone Co. Diamond State Telephone Co.	April 1, 1985 July 31, 1987 March 8, 1988
		720536-TP Depr. Repr 880069-TL 880069-TL 880069-TL	All Telephone Companies Southern Bell Southern Bell Southern Bell Southern Bell	September 12, 1983 July 30, 1986 July 21, 1988 November 30, 1990 February 11, 1992
FL	GTE Sprint Communications Company Office of Public Counsel Federal Executive Agencies Federal Executive Agencies Federal Executive Agencies	3893-U 3905-U 3987-U 4018-U	Southern Bell Telephone Co. Southern Bell Telephone Co. Southern Bell Telephone Co. Southern Bell Telephone Co.	January 8, 1990 June 12, 1990 February 13, 1992 Jan 14, Feb 10, 1993
		1871 4588 7579 94-0093 7702 94-0298 7720	Hawaiian Telephone Company Hawaiian Telephone Company Hawaiian Telephone Company Oceanic Communications All Communications Carriers GTE Hawaiian Telephone Company Verizon-Hawaii	July 8, 1971 December 15, 1983 April 26, 1994 March 13, 1995 June 2, 1995 May 7, 1996 November 15, 2000
GA	Georgia Attorney General Federal Executive Agencies Federal Executive Agencies Georgia Public Service Commission	3893-U 3905-U 3987-U 4018-U	Southern Bell Telephone Co. Southern Bell Telephone Co. Southern Bell Telephone Co. Southern Bell Telephone Co.	January 8, 1990 June 12, 1990 February 13, 1992 Jan 14, Feb 10, 1993
		1871 4588 7579 94-0093 7702 94-0298 7720	Hawaiian Telephone Company Hawaiian Telephone Company Hawaiian Telephone Company Oceanic Communications All Communications Carriers GTE Hawaiian Telephone Company Verizon-Hawaii	July 8, 1971 December 15, 1983 April 26, 1994 March 13, 1995 June 2, 1995 May 7, 1996 November 15, 2000
HI	Hawaii Public Utility Commission Four Hawaii Counties Department of Defense Department of Defense Department of Defense Department of Defense	1871 4588 7579 94-0093 7702 94-0298 7720	Hawaiian Telephone Company Hawaiian Telephone Company Hawaiian Telephone Company Oceanic Communications All Communications Carriers GTE Hawaiian Telephone Company Verizon-Hawaii	July 8, 1971 December 15, 1983 April 26, 1994 March 13, 1995 June 2, 1995 May 7, 1996 November 15, 2000
		1871 4588 7579 94-0093 7702 94-0298 7720	Hawaiian Telephone Company Hawaiian Telephone Company Hawaiian Telephone Company Oceanic Communications All Communications Carriers GTE Hawaiian Telephone Company Verizon-Hawaii	July 8, 1971 December 15, 1983 April 26, 1994 March 13, 1995 June 2, 1995 May 7, 1996 November 15, 2000

**CHARLES W. KING**  
**Appearances before State Regulatory Agencies**

State	Telecommunications Cases			Date of Cross-Examination
	Client	Case		
		Case Number	Utility	
ID	U.S. Department of Energy U.S. Department of Energy	U-1000-63 U-1000-70	Mountain Bell Telephone Co. Mountain Bell Telephone Co.	May 16, 1983 March 6, 1984
IL	Illinois Aalarm Companies Attorney General of Illinois GTE Sprint Communications Co. Federal Executive Agencies	79-0143 81-0478 83-0142 89-0033	Illinois Bell Telephone Illinois Bell Telephone All Telephone Companies Illinois Bell Telephone	September 26, 1979 December 28, 1981 August 4, 1983 June 12, 1989
KS	State Corporation Commission Federal Executive Agencies Federal Executive Agencies	Depr. Repr. 166.856-U 190, 492	Southwestern Bell Southwestern Bell All Telephone Companies	May 12-14, 1986 November 7, 1989 November 4, 1994
MD	Maryland People's Counsel Maryland People's Counsel Maryland People's Counsel Maryland People's Counsel Federal Executive Agencies Federal Executive Agencies Federal Executive Agencies	6813 6881 7025 7467 7851 8106 8274	C&P Telephone Company C&P Telephone Company C&P Telephone Company C&P Telephone Company C&P Telephone Company C&P Telephone Company C&P Telephone Company	1975 December 17, 1975 March 15, 1975 October 20, 1981 March 20, 1985 May 9, 1988 August 2, 1990
MI	Michigan Attorney General Michigan Attorney General	U-8911 U-9553	Michigan Bell Telephone Co. AT&T Communications/MCI	November 7, 1988 December 4, 1990
MN	GTE Sprint Communications Co. U.S. Department of Defense	83-102-HC 87-021-BC	All Telephone Companies Northwest Bell Telephone Co.	August 5, 1983 (none)
MO	GTE Sprint Communications Co. Federal Executive Agencies Federal Executive Agencies	TR83-253 TC-89-14 TO-89-56	Southwestern Bell Tel. Co. Southwestern Bell Tel. Co. Southwestern Bell Tel. Co.	September 5, 1983 (none) November 7, 1990
MS	Federal Executive Agencies	U-5453	South Central Bell Tel. Co.	May 15, 1990

**CHARLES W. KING**  
**Appearances before State Regulatory Agencies**

State	Telecommunications Cases			Date of Cross-Examination
	Client	Case		
		Case Number	Utility	
NJ	Department of Public Advocate Department of Public Advocate Department of Public Advocate Department of Public Advocate Department of Public Advocate	Depr.Repr. 815-458 Depr.Repr. Depr.Repr. T092030358	N.J. Bell Telephone Company N.J. Bell Telephone Company N.J. Bell Telephone Company N.J. Bell Telephone Company N.J. Bell Telephone Company	Mar-79 October 15, 1981 March 1, 1982 February 1, 1985 September 30, 1992
NM	New Mexico Corporation Commission New Mexico Corporation Commission	1032 86-151-TC	Mountain Bell Telephone Co. General Telephone of Southwest	November 14, 1983 February 5, 1987
NV	Prime Cable of Las Vegas Prime Cable of Las Vegas	95-8034/8035 96-9035	Central Telephone - NV Sprint/Centel, Nevada Bell	Filed November 22, 1995 June 2, 1997
NY	Holmes Protection, Inc. Holmes Protection, Inc. 5 Alarm Companies GTE Sprint Communications Co.	27350 27469 27710 28425	New York Telephone Company New York Telephone Company New York Telephone Company All Telephone Companies	October 17, 1978 May 17, 1979 July 24, 1980 July 8, 1983
PA	City of Philadelphia	R-832316	Pennsylvania Bell Telephone	September 20, 1983
SC	Office of Consumer Advocate Office of Consumer Advocate Office of Consumer Advocate Office of Consumer Advocate Office of Consumer Advocate	Depr.Repr. 86-511-C 86-541-C Depr.Repr. 89-180-C	Southern Bell Southern Bell General Telephone of South Southern Bell ALLTEL of South Carolina	July 1, 1986 December 11, 1986 April 8, 1987 July 10, 1989 September 26, 1989
TX	U.S. Department of Defense	8585/8218	Southwestern Bell Telephone Co.	(none)
VA	U.S. Dept. Of Defense, GSA, et Federal Executive Agencies	19696 PUC 890014	C&P Telephone Company All Telephone Companies	October 6, 1976 February 13, 1989

**CHARLES W. KING**  
**Appearances before State Regulatory Agencies**

State	Telecommunications Cases				Date of Cross-Examination
	Client	Case		Utility	
		Case Number			
VI	V.I. Department of Commerce V.I. Public Service Commission	205 341	Virgin Islands Telephone Co. Virgin Islands Telephone Co.		April 29, 1980 March 20, 1991
WA	U.S. Department of Defense U.S. Department of Defense U.S. Department of Defense U.S. Department of Defense WA Attorney General/TRACER U.S. Department of Defense U.S. Department of Defense WA Attorney General/TRACER WA Attorney General/TRACER	U-72-39 U-87-796-T U-88-20524 U-89-2698-F UT-940641 UT-941464  UT-951425 UT-961632	Pacific Northwest Bell Pacific Northwest Bell Pacific Northwest Bell US West Communications US West Communications US West Communications US West Communications GTE Northwest, Inc		1973 December 20, 1983 November 8, 1988 November 28, 1989 Filed October 14, 1994 June 22, 1995 January 22, 1996 Filed June 23, 1997 July 29, 1997
WI	GTE Sprint	6720-TR-38	All Telephone Companies		October 20, 1983

Federal Communications Commission			
Client	Docket	Subject	Date of Cross-Examination
Department of Defense Airline Parties Airline Parties National Data Corporation Press Wire Services Aeronautical Radio Department of Defense State of Hawaii International Record Carriers ITT World Communications Aeronautical Radio MCI Ind. Data Com. Mfg. Assn. Tymnet, Inc. Adelphia Jones Intercable, et. al. Adelphia Jones Intercable, et. al. Adelphia Jones Intercable, et. al.	16020 16258 18128 19989 19919 20814 20690 21263 CC78-97 CC84-633 CC78-72 CC84-800 CC85-26 ENF84-22 Bell Atlantic Bell Atlantic Bell Atlantic	Consat Rate of Return Bell System Rates TELPAC WATS Private Line Rates Private Line Rates 1,544 Mbps Service Interstate Separation Telex/TWX Rates Rate of Return Access Line Charges Rate of Return AT&T Accounting Plan Packet Switching Costs Video Dialtone Video Dialtone Video Dialtone	1973 July 22, 1968 3/22, 10/15 1971, Feb. 22, 1972 (none) (none) October 5, 1978 January 30, 1979 February 7, 1979 March 6, 1980 (none) (none) (none) (none) Filed 7/29/94 Filed 8/23/94 Filed 2/21/95
Nuclear Regulatory Commission			
Fauquier League for Environment Protection	50-328 50-329	Va. Electric Power Co.	1976
Postal Rate Commission			
Association of Third Class Mail Users Dow Jones & Company Dow Jones & Company Dow Jones & Company Dow Jones & Company Dow Jones & Company Warshawsky & Company Dow Jones & Company	R71-1 R72-1 R74-1 MC76-2 MC79-3 R80-1 C82-1 R84-1 R87-1 R90-1 MC91-1 MC91-3	Rates Rates Rates Rate Structure Rate Structure Rates Rate Structure Postal Costs Rate Structure Costs Rate Structure Costs Pre-barcoding Discounts Palletization Discounts	1970 1972 September 13, 1974 January 6, 1979 September 12, 1979 November 25, 1980 (none) June 14, 1984 November 2, 1987 Sept 12, Oct 10, 1990 November 19, 1991 March 2, 1992

CHAIRMAN W. KING  
Appearances before Federal Regulatory Agencies

Client	Docket	Subject	Date of Cross-Examination
<b>U.S. Congress</b>			
National Retail Merchants Association National Wireless Resellers Association	House/Senate Hearings House Commerce Committee	Electric Rate Reform Legislation Interconnection & Resale of Wireless Services	1976, 1977 & 1979 October 12, 1995
<b>Federal Maritime Commission</b>			
State of Hawaii Foss Alaska Line Palmetto Shipping and Stevedoring	71-18 79-54 85-20	Ocean Shipping Rates Barge Rate Increase Vessel Charge Liability	October-71 July 1979 October 27, 1986
<b>Interstate Commerce Commission</b>			
Western Coal Traffic League Western Coal Traffic League Western Coal Traffic League Arkansas Power & Light Co. Central Illinois Light Co. Western Coal Traffic League	Ex Parte 349 Ex Parte 357 Ex Parte 375 (Sub 1) 37276 37450 Ex Parte 347	R.R. Rate Increase R.R. Rate Increase R.R. Rate Increase Cost of Capital Cost of Capital Costing Methods	May-76 Oct-78 June 1, 1980 (none) March 10, 1981 (none)
<b>Civil Aeronautics Board</b>			
Thomas Cook, Inc.	36595	Air Fare Deregulation	(none)
<b>Copyright Royalty Tribunal</b>			
Public Broadcasting Service	88-2-86CD	Television Valuation	(none)
<b>Federal Energy Regulatory Commission</b>			
Exxon USA	OR89-2-000	Pipeline Quality Bank	October 18, 1990
<b>Canadian Transport Commission</b>			
Rail Costing Inquiry, 1967-1969 Telecommunications Costing Inquiry, 1972-1975			
<b>Surface Transportation Board</b>			
Williams Energy Services, Inc.	Ex Parte 582, Sub 1	Rail Merger Guidelines	April 5, 2001



COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF THE UNION LIGHT, )  
HEAT AND POWER COMPANY FOR A )  
CERTIFICATE OF PUBLIC CONVENIENCE )  
AND NECESSITY TO ACQUIRE CERTAIN )  
GENERATION RESOURCES AND RELATED )  
PROPERTY; FOR APPROVAL OF CERTAIN )  
PURCHASE POWER AGREEMENTS; FOR )  
APPROVAL OF CERTAIN ACCOUNTING )  
TREATMENT; AND FOR APPROVAL OF )  
DEVIATION FROM REQUIREMENTS OF )  
KRS 278.2207 AND 278.2213(6) )

CASE NO. 2003-00252

**DIRECT TESTIMONY OF  
MICHAEL J. MAJOROS, JR.**

ON BEHALF OF

THE OFFICE OF THE ATTORNEY GENERAL  
COMMONWEALTH OF KENTUCKY

SEPTEMBER 26, 2003



1 A. I will address the Union Light, Heat & Power Company's ("ULH&P" or "the Company")  
2 transfer/purchase value of the East Bend, Miami Fort 6, and Woodsdale generating  
3 stations ("the Plants").

4 **SUMMARY OF TESTIMONY**

5 **Q. PLEASE SUMMARIZE YOUR CONCLUSIONS AND RECOMMENDATIONS.**

6 A. I conclude that the Company's proposed transfer value of these generating stations is  
7 overstated and does not comport with sound ratemaking theory and concepts. The  
8 Company's proposal will result in an overstated rate base; a distorted capital structure  
9 leading to an overstated cost of equity; and overstated income tax expense on a going-  
10 forward basis. These impacts result from the Company's proposed treatment of  
11 Accumulated Deferred Income Taxes ("ADIT") and Accumulated Deferred Investment  
12 Tax Credits ("ADITC"). The Company's proposed treatment will result in an  
13 inappropriate enrichment of its shareholders at the expense of Kentucky ratepayers.

14 **SUMMARY OF COMPANY PROPOSAL**

15 **Q. PLEASE SUMMARIZE THE COMPANY'S PROPOSAL.**

16 A. Mr. Steffen provides the "estimated impact that ULH&P's proposed acquisition of [the  
17 Plants] from CG&E at net book value will have on ULH&P's average retail rates and  
18 ULH&Ps revenue requirement."<sup>1</sup> According to Mr. Steffen, the estimated net book value  
19 of the plants at July 1, 2004 is \$384.5 million.<sup>2</sup> This amount provides the basis for Mr.  
20 Steffen's \$550.5 million rate base estimate at December 31, 2006.<sup>3</sup>

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<sup>1</sup> Direct Testimony of John P. Steffen ("Steffen") page 2.

<sup>2</sup> Id., page 3.

<sup>3</sup> Attachment JPS-3, third column and bottom line answer.

1 **Q. ARE THERE ANY OBVIOUS FLAWS WITH MR. STEFFEN'S NUMBERS AND**  
2 **APPROACH?**

3 A. Yes, the \$384.5 million net book value estimate is inappropriate. The appropriate figure  
4 is the adjusted net book value, recognizing balances in the ADIT and ADITC accounts.  
5 Exhibit\_\_\_(MJM-1) is the Company's response to KyAG-DR-01-037. It provides the  
6 Company's estimate of the amounts in these accounts as of March 31, 2003. They are  
7 summarized below.

<u>Description</u>	<u>Amount</u>
ADITC	\$7.4 million
ADIT	<u>83.4 million</u>
Total	\$90.8 million

8  
9  
10  
11  
12  
13  
14 As one can see, these tax-deferrals represent a substantial percentage (23.4%) of the July  
15 1, 2004 net book value. The \$384.5 million net book value should be reduced by the  
16 related ADITs and the ADITCs.

17 **ADITS AND ADITCS**

18 **Q. WHAT DO THE ADIT AMOUNTS REPRESENT AND HOW DID THEY COME**  
19 **TO EXIST ON THE COMPANY'S FINANCIAL STATEMENTS?**

20 A. The ADIT amounts are the tax effects of timing differences between the regulated  
21 accounting records and tax returns. The most well known of these differences is the  
22 difference between book straight-line depreciation and tax accelerated depreciation.  
23 During the early years of this timing difference, tax depreciation exceeds book  
24 depreciation. The difference between those two amounts times the effective tax rate is  
25 recorded in the accumulated deferred income tax account. Eventually as the timing

1 difference turns around, i.e., book depreciation exceeds tax depreciation, the ADIT  
2 account theoretically extinguishes itself.

3 **Q. WHAT DO THE ADITC AMOUNTS REPRESENT AND HOW DID THEY**  
4 **COME TO EXIST ON THE COMPANY'S FINANCIAL STATEMENTS?**

5 A. The ADITC amounts represent permanent reductions to tax expense which are amortized  
6 to income over the life of the property that gave rise to the credits. The ADITC balances  
7 represent the unamortized portions of these amounts.

8 **Q. HOW ARE THESE AMOUNTS TREATED FOR RATEMAKING PURPOSES?**

9 A. They are typically subtracted from the net book value of plant in arriving at the rate base  
10 to which an overall rate of return is applied. Alternatively, the ADITCs have from time  
11 to time in various jurisdictions, been treated as zero cost capital in the quantification of  
12 the overall rate of return. In either case, these amounts are used to reduce revenue  
13 requirements.

14 **Q. WHY ARE THE ADIT AND ADITC AMOUNTS USED TO REDUCE REVENUE**  
15 **REQUIREMENTS?**

16 A. They are used to reduce revenue requirements to recognize that they were built-up by  
17 increases to revenue requirements for taxes that were not paid. The income tax expense  
18 in the revenue requirement calculation was more than the Company actually paid to the  
19 government as income taxes. In other words, the ADITs and ADITCs represent  
20 customer-provided capital.

## 21 **UNREGULATED PLANTS**

22 **Q. DO THE ADITS AND ADITCS RELATE TO DEREGULATED PLANTS?**

1 A. Apparently these plants were unbundled in Ohio, and may have been unregulated for a  
2 short period of time, but the tax deferrals were collected from ratepayers, regardless of  
3 any arbitrary distinctions such as regulated vs. unregulated.

4 **COMPANY'S PROPOSED TREATMENT OF ADITS AND ADITCS**

5 **Q. PLEASE EXPLAIN HOW THE COMPANY PROPOSES TO TREAT THE**  
6 **CUSTOMER-PROVIDED CAPITAL RESULTING FROM ADITCS?**

7 A. Mr. Steffen states:

8 At March 31, 2003, there was an ADITC balance of  
9 approximately \$8 million associated with the plants  
10 recorded in FERC account 255. A small portion of  
11 this balance is FERC jurisdictional, but the majority  
12 is related to Ohio retail ratepayers. Since the retail  
13 unbundling in Ohio, the retail portion of this  
14 balance has been amortized below the line over the  
15 remaining lives of the Plants. It is ULH&P's  
16 proposal that the balance associated with the Plants  
17 will be transferred from the books of CG&E to the  
18 books of ULH&P concurrent with the transfer of the  
19 Plants.<sup>4</sup>

20 The transferred ADITC balance will be  
21 amortized on ULH&P's books below the line over  
22 the remaining lives of the Plants. Amortization of  
23 this ADITC below the line will exclude these pre-  
24 transfer amounts from retail ratemaking in  
25 Kentucky.<sup>5</sup>

26  
27 **Q. WHAT DOES THIS MEAN?**

28  
29 A. The Company proposes to take these amounts into income below-the-line, rather than  
30 flow them back to ratepayers.

31 **Q. DOES THE COMPANY ACKNOWLEDGE THAT THERE ARE ADITS ON THE**  
32 **BOOKS OF CG&E RELATED TO THE PLANTS?**

---

<sup>4</sup> Steffen, page 12.

<sup>5</sup> Id., page 13.

1 A. Yes.<sup>6</sup>

2 **Q. PLEASE EXPLAIN HOW THE COMPANY PROPOSES TO TREAT THE**  
3 **CUSTOMER-PROVIDED CAPITAL RESULTING FROM ADITS?**

4 A. Mr. Steffen states:

5 ULH&P proposes to transfer the accumulated deferred tax  
6 balances from the books of CG&E to the books of ULH&P  
7 concurrent with the transfer of the Plants. The balances  
8 transferred from CG&E to ULH&P would not be  
9 considered for ratemaking in Kentucky, since they are  
10 applicable to the period of time prior to ULH&P's  
11 ownership of the Plants. Any deferred income taxes  
12 generated after UHL&P owns the Plants will be considered  
13 for ratemaking in Kentucky.<sup>7</sup>  
14

15 **Q. DO YOU AGREE WITH ANY OF THE COMPANY'S PROPOSALS RELATING**  
16 **TO THESE TAX AMOUNTS?**

17 A. No. The Company is requesting an erroneous approach to the treatment of all of these  
18 tax amounts. The Company's proposals are at odds not only with conventional  
19 ratemaking, but also with reality. They will result in overstated revenue requirements  
20 relating to these Plants. These amounts represent customer-provided capital while the  
21 plants were under regulation. It is irrelevant whether that customer-provided capital was  
22 provided by the ratepayers in Ohio, or any other state for that matter. The fact is that the  
23 capital was provided by customers, not by shareholders. The Company gives no  
24 recognition to this fact.

25 **CONSEQUENCES OF APPROVAL**

26 **Q. WHAT WILL HAPPEN IF THE COMPANY'S PROPOSAL IS APPROVED?**

---

<sup>6</sup> Id. page 13.

<sup>7</sup> Id.

1 A. The result of the Company's proposal, if accepted, will be that CG&E will take the  
2 previously-collected, customer-provided capital into its equity account. The transfer  
3 value will be overstated by this amount. Thus, the shareholders will gain almost \$90  
4 million because the Kentucky ratepayers will overpay \$90 million (plus the future return  
5 thereon) for these plants. Kentucky ratepayers should not be required to pay any more  
6 than CG&E's cost for these plants. Under its proposal, CG&E overstates that cost by \$90  
7 million.

8 **Q. WILL AN OVERSTATED RATE BASE BE THE ONLY REASON THAT**  
9 **KENTUCKY RATEPAYERS WILL BE OVERCHARGED BASED ON THE**  
10 **COMPANY'S PROPOSAL?**

11 A. In addition to an overstated rate base, Kentucky ratepayers will be burdened with an  
12 excessive equity ratio, rate of return, and overstated tax expenses on an ongoing basis.

13 **Q. WHY WILL THE EQUITY RATIO BE OVERSTATED?**

14 A. The deferrals reduce the equity component of the transfer. The equity ratio will be  
15 overstated because CG&E's proposal will overcharge ULH&P for the Plants with the  
16 assumption that the Kentucky ratepayers are going to pay for that overcharge. In other  
17 words, CG&E will charge ULH&P \$384.5 million without recognizing that  
18 approximately \$90 million of that amount was funded by ratepayers. It is almost as if the  
19 Company is setting-up an account receivable from Kentucky ratepayers for money  
20 already paid by ratepayers. It is a sham.

21 **Q. WHY WILL TAX EXPENSES BE OVERSTATED ON AN ONGOING BASIS?**

22 A. First, the ADITC amounts are to be amortized back over the life of the assets. Although  
23 the Company intends to continue that practice, it will pass the benefit to its shareholders

1 below-the-line, even though it was ratepayers who paid for the benefit. Second, the  
2 ongoing tax expense will be overstated because ratepayers will, in effect, be paying  
3 actual taxes on a going-forward basis for tax expenses previously funded by ratepayers.  
4 In other words, ADITs represent tax payments relating to these Plants in the past that  
5 were made by ratepayers but retained by the Company. These amounts were to be used  
6 in the future to eliminate the need for additional collections from ratepayers when timing  
7 differences such as the depreciation difference discussed earlier turned around. The  
8 Company's proposal would charge Kentucky ratepayers for those turnarounds even  
9 though it already collected the tax amounts in the past from its customers.

10 **RECOMMENDATION**

11 **Q. WHAT IS THE APPROPRIATE TREATMENT OF THESE TAX AMOUNTS?**

12 A. The ADITs and ADITCs must be subtracted from the net book value in the transfer, and  
13 they must be considered to be a reduction to the equity component of the transfer. That is  
14 because the equity component, without such an adjustment, assumes that the tax amounts  
15 were provided by shareholders rather than ratepayers. This is obviously an incorrect  
16 assumption. This will have an impact on the capital structure assigned to the plants and  
17 also on the resulting overall capital structure subsequent to the transfer.

18 **Q. SUBSEQUENT TO THE TRANSFER, HOW SHOULD THESE TAX AMOUNTS**  
19 **BE TREATED FOR RATEMAKING PURPOSES?**

20 A. The ADITCs should be either subtracted from rate base or treated as zero-cost capital.  
21 The ADITCs should continue to be amortized over the remaining lives of the plants, but  
22 the amortization should be above-the-line to recognize the source of the ADITCs. In  
23 other words, they came from ratepayers not shareholders.

1 **Q. HOW SHOULD THE ADITS BE TREATED?**

2 **A.** The Company should continue to account for these amounts above-the-line in accordance  
3 with the FERC USOA rules. New deferrals will increase the ADITs and turnarounds of  
4 prior deferrals will reduce the ADITs. The offsets should be reflected in the above-the-  
5 line income tax expense.

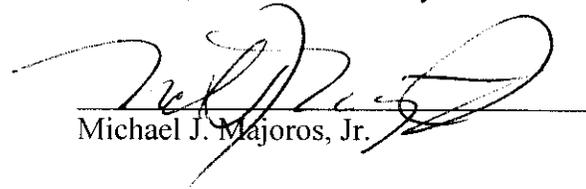
6 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

7 **A.** Yes, it does.

Washington, )  
:            ss.  
District of Columbia )

**AFFIDAVIT**

I, MICHAEL J. MAJOROS, JR., hereby swear and affirm that the foregoing testimony and any accompanying exhibits were prepared by me or under my direction and that the information contained therein is, to the best of my information and belief, true and correct.

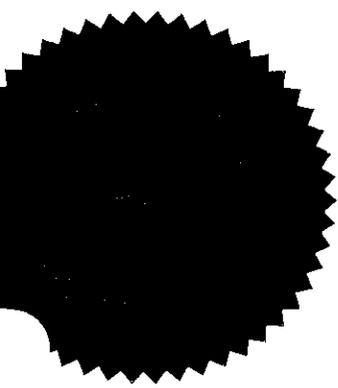
  
Michael J. Majoros, Jr.

Washington,  
District of Columbia

Subscribed and sworn to before me this 25<sup>th</sup> day of September, 2003, by  
Michael J. Majoros, Jr.

My Commission Expires: March 14, 2006

  
Notary Public, State at Large



**KY AG Data Requests Set No. 1**  
**Case No. 2003-00252**  
**Date Received: August 22, 2003**  
**Response Due Date: September 2003**

**KyAG-DR-01-037**

**REQUEST:**

- 1-37 Please provide the annual amounts of the following for each plant since it's original installation date: deferred tax provisions, accumulated deferred tax balances, investment tax credits realized, investment tax credits deferred, investment tax credits amortized, accumulated deferred investment tax credits balances. Provide all additional tax data related to each plant.

**RESPONSE:**

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Attachment KyAG-DR-01-037 contains the calculation of the estimated Accumulated Deferred Investment Tax Credit balances and the Accumulated Deferred Income Tax balances as of March 31, 2003 for each plant. Annual information dating to the original installation date of the plants is not available.

**WITNESS RESPONSIBLE:** John P. Steffen

Case No. 2003-00252  
ULH&P  
Attachment KyAG-01-037  
Page 2 of 2

**The Cincinnati Gas & Electric Company**  
Calculation of Accumulated Deferred Income Tax Balances  
For East Bend, Woodsdale, and Miami Fort #6 Stations  
As of March 31, 2003

		<u>Woodsdale</u>	<u>East Bend</u>	<u>Miami Fort #6</u>	<u>Total</u>
Book Base		269,801,443	401,077,587	70,747,563	741,626,593
Book Reserve		111,335,791	195,616,804	51,313,584	358,266,179
Net Book Base		<u>158,465,652</u>	<u>205,460,783</u>	<u>19,433,979</u>	<u>383,360,414</u>
Tax Base		250,180,797	349,245,448	64,186,625	663,612,870
Tax Reserve		170,526,385	276,041,702	46,699,416	493,267,503
Net Tax Base		<u>79,654,412</u>	<u>73,203,746</u>	<u>17,487,209</u>	<u>170,345,367</u>
Net Book Over Net Tax		78,811,240	132,257,037	1,946,770	213,015,047
Federal Deferral Rate		<u>32.7672%</u>	<u>32.7672%</u>	<u>32.7672%</u>	<u>32.7672%</u>
Federal Deferred Income Taxes	FERC Acct 282	<u>25,824,237</u>	<u>43,336,928</u>	<u>637,902</u>	<u>69,799,066</u>
State & Municipal Deferral Rate - Ohio	4.9900%	3,932,681	6,599,626	97,144	10,629,451
Indiana	0.1394%	109,863	184,366	2,714	296,943
Kentucky	0.2500%	197,028	330,643	4,867	532,538
Municipal	1.0000%	<u>788,112</u>	<u>1,322,570</u>	<u>19,468</u>	<u>2,130,150</u>
State & Municipal Deferred Income Taxes	FERC Acct 282	<u>5,027,684</u>	<u>8,437,205</u>	<u>124,192</u>	<u>13,589,082</u>
Total Deferred Income Taxes		<u>30,851,921</u>	<u>51,774,133</u>	<u>762,094</u>	<u>83,388,148</u>

Case No. 2003-00252  
ULH&P  
Attachment KyAG-01-037  
Page 1 of 2

The Cincinnati Gas & Electric Company  
Remaining ADITC Balances  
As of March 31, 2003

	<u>Miami Fort #5&amp;6</u>	<u>East Bend</u>
3% ITC Basis	56,022	0
3% Accumulated Amortization	(55,793)	0
4% ITC Basis	143,024	4,781
4% Accumulated Amortization	(121,560)	(3,413)
10% ITC Basis	2,409,931	23,686,291
10% Accumulated Amortization	(1,880,747)	(16,376,044)
ADITC Balance	<u>550,877</u>	<u>7,311,615</u>
<hr/>		
Balances after write down of 3% and 4% @ 83.134% to RTC		
3% ITC Basis	9,449	0
3% Accumulated Amortization	(9,410)	0
4% ITC Basis	24,122	806
4% Accumulated Amortization	(20,502)	(576)
10% ITC Basis	2,409,931	23,686,291
10% Accumulated Amortization	(1,880,747)	(16,376,044)
ADITC Balance	<u>532,843</u>	<u>7,310,478</u>
Miami Fort #6 Estimated Allocation Percent	17.60%	
Miami Fort #6 Estimated Balance	<u>93,780</u>	
Non-reg Allocation Percentage	82.185%	82.185%
Non-reg ITC Balances (FERC Account 255)	<u>77,073</u>	<u>6,008,116</u>
FERC Regulated ITC Balances (FERC Account 255)	<u>16,707</u>	<u>1,302,362</u>

Note: Woodsdale was constructed after repeal of Internal Revenue Code Section 46, therefore no ITC was generated on that plant.

**Experience****Snively King Majoros O'Connor & Lee, Inc.**

*Vice President and Treasurer (1988 to Present)*  
*Senior Consultant (1981-1987)*

Mr. Majoros provides consultation specializing in accounting, financial, and management issues. He has testified as an expert witness or negotiated on behalf of clients in more than one hundred thirty regulatory proceedings involving telephone, electric, gas, water, and sewerage companies. Mr. Majoros has appeared before Federal and state agencies. His testimony has encompassed a wide variety of complex issues including taxation, divestiture accounting, revenue requirements, rate base, nuclear decommissioning, plant lives, and capital recovery. Mr. Majoros has also provided consultation to the U.S. Department of Justice.

Mr. Majoros has been responsible for developing the firm's consulting services on depreciation and other capital recovery issues into a major area of practice. He has also developed the firm's capabilities in the management audit area.

**Van Scoyoc & Wiskup, Inc., Consultant (1978-1981)**

Mr. Majoros performed various management and regulatory consulting projects in the public utility field, including preparation of electric system load projections for a group of municipally and cooperatively owned electric systems; preparation of a system of accounts and reporting of gas and oil pipelines to be used by a state regulatory commission; accounting system analysis and design for rate proceedings involving electric, gas, and telephone utilities. Mr. Majoros also assisted in an antitrust proceeding involving a major electric utility. He submitted expert testimony in FERC Docket No. RP79-12 (El Paso Natural Gas Company). In addition, he co-authored a study entitled Analysis of Staff Study on Comprehensive Tax Normalization that was submitted to FERC in Docket No. RM 80-42.

**Handling Equipment Sales Company, Inc.  
Treasurer (1976-1978)**

Mr. Majoros' responsibilities included financial management, general accounting and reporting, and income taxes.

**Ernst & Ernst, Auditor (1973-1976)**

Mr. Majoros was a member of the audit staff where his responsibilities included auditing, supervision, business systems analysis, report preparation, and corporate income taxes.

**University of Baltimore - (1971-1973)**

Mr. Majoros was a full-time student in the School of Business.

During this period Mr. Majoros worked consistently on a part-time basis in the following positions: Assistant Legislative Auditor – State of Maryland, Staff Accountant – Robert M. Carney & Co., CPA's, Staff Accountant – Naron & Wegad, CPA's, Credit Clerk – Montgomery Wards.

**Central Savings Bank, (1969-1971)**

Mr. Majoros was an Assistant Branch Manager at the time he left the bank to attend college as a full-time student. During his tenure at the bank, Mr. Majoros gained experience in each department of the bank. In addition, he attended night school at the University of Baltimore.

**Education**

University of Baltimore, School of Business, B.S. –  
 Concentration in Accounting

**Professional Affiliations**

American Institute of Certified Public Accountants  
 Maryland Association of C.P.A.s  
 Society of Depreciation Professionals

**Publications, Papers, and Panels**

*"Analysis of Staff Study on Comprehensive Tax Normalization," FERC Docket No. RM 80-42, 1980.*

*"Telephone Company Deferred Taxes and Investment Tax Credits – A Capital Loss for Ratepayers," Public Utility Fortnightly, September 27, 1984.*

*"The Use of Customer Discount Rates in Revenue Requirement Comparisons," Proceedings of the 25th Annual Iowa State Regulatory Conference, 1986*

*"The Regulatory Dilemma Created By Emerging Revenue Streams of Independent Telephone Companies," Proceedings of NARUC 101st Annual Convention and Regulatory Symposium, 1989.*

*"BOC Depreciation Issues in the States," National Association of State Utility Consumer Advocates, 1990 Mid-Year Meeting, 1990.*

*"Current Issues in Capital Recovery" 30<sup>th</sup> Annual Iowa State Regulatory Conference, 1991.*

*"Impaired Assets Under SFAS No. 121," National Association of State Utility consumer Advocates, 1996 Mid-Year Meeting, 1996.*

*"What's 'Sunk' Ain't Stranded: Why Excessive Utility Depreciation is Avoidable," with James Campbell, Public Utilities Fortnightly, April 1, 1999.*

*"Local Exchange Carrier Depreciation Reserve Percents," with Richard B. Lee, Journal of the Society of Depreciation Professionals, Volume 10, Number 1, 2000-2001*

## Michael J. Majoros, Jr.

### Federal Regulatory Agencies

<u>Date</u>	<u>Agency</u>	<u>Docket</u>	<u>Utility</u>
1979	FERC-US <u>19/</u>	RR79-12	El Paso Natural Gas Co.
1980	FERC-US <u>19/</u>	RM80-42	Generic Tax Normalization
1996	CRTC-Canada <u>30/</u>	97-9	All Canadian Telecoms
1997	CRTC-Canada <u>31/</u>	97-11	All Canadian Telecoms
1999	FCC <u>32/</u>	98-137 (Ex Parte)	All LECs
1999	FCC <u>32/</u>	98-91 (Ex Parte)	All LECs
1999	FCC <u>32/</u>	98-177 (Ex Parte)	All LECs
1999	FCC <u>32/</u>	98-45 (Ex Parte)	All LECs
2000	EPA <u>35/</u>	CAA-00-6	Tennessee Valley Authority
2003	FERC	RM02-7	All Utilities

### State Regulatory Agencies

1982	Massachusetts <u>17/</u>	DPU 557/558	Western Mass Elec. Co.
1982	Illinois <u>16/</u>	ICC81-8115	Illinois Bell Telephone Co.
1983	Maryland <u>8/</u>	7574-Direct	Baltimore Gas & Electric Co.
1983	Maryland <u>8/</u>	7574-Surrebuttal	Baltimore Gas & Electric Co.
1983	Connecticut <u>15/</u>	810911	Woodlake Water Co.
1983	New Jersey <u>1/</u>	815-458	New Jersey Bell Tel. Co.
1983	New Jersey <u>14/</u>	8011-827	Atlantic City Sewerage Co.
1984	Dist. Of Columbia <u>7/</u>	785	Potomac Electric Power Co.
1984	Maryland <u>8/</u>	7689	Washington Gas Light Co.
1984	Dist. Of Columbia <u>7/</u>	798	C&P Tel. Co.
1984	Pennsylvania <u>13/</u>	R-832316	Bell Telephone Co. of PA
1984	New Mexico <u>12/</u>	1032	Mt. States Tel. & Telegraph
1984	Idaho <u>18/</u>	U-1000-70	Mt. States Tel. & Telegraph
1984	Colorado <u>11/</u>	1655	Mt. States Tel. & Telegraph
1984	Dist. Of Columbia <u>7/</u>	813	Potomac Electric Power Co.
1984	Pennsylvania <u>3/</u>	R842621-R842625	Western Pa. Water Co.
1985	Maryland <u>8/</u>	7743	Potomac Electric Power Co.
1985	New Jersey <u>1/</u>	848-856	New Jersey Bell Tel. Co.
1985	Maryland <u>8/</u>	7851	C&P Tel. Co.
1985	California <u>10/</u>	I-85-03-78	Pacific Bell Telephone Co.
1985	Pennsylvania <u>3/</u>	R-850174	Phila. Suburban Water Co.
1985	Pennsylvania <u>3/</u>	R850178	Pennsylvania Gas & Water Co.
1985	Pennsylvania <u>3/</u>	R-850299	General Tel. Co. of PA
1986	Maryland <u>8/</u>	7899	Delmarva Power & Light Co.
1986	Maryland <u>8/</u>	7754	Chesapeake Utilities Corp.
1986	Pennsylvania <u>3/</u>	R-850268	York Water Co.
1986	Maryland <u>8/</u>	7953	Southern Md. Electric Corp.
1986	Idaho <u>9/</u>	U-1002-59	General Tel. Of the Northwest
1986	Maryland <u>8/</u>	7973	Baltimore Gas & Electric Co.

**Michael J. Majoros, Jr.**

1987	Pennsylvania <u>3/</u>	R-860350	Dauphin Cons. Water Supply
1987	Pennsylvania <u>3/</u>	C-860923	Bell Telephone Co. of PA
1987	Iowa <u>6/</u>	DPU-86-2	Northwestern Bell Tel. Co.
1987	Dist. Of Columbia <u>7/</u>	842	Washington Gas Light Co.
1988	Florida <u>4/</u>	880069-TL	Southern Bell Telephone
1988	Iowa <u>6/</u>	RPU-87-3	Iowa Public Service Company
1988	Iowa <u>6/</u>	RPU-87-6	Northwestern Bell Tel. Co.
1988	Dist. Of Columbia <u>7/</u>	869	Potomac Electric Power Co.
1989	Iowa <u>6/</u>	RPU-88-6	Northwestern Bell Tel. Co.
1990	New Jersey <u>1/</u>	1487-88	Morris City Transfer Station
1990	New Jersey <u>5/</u>	WR 88-80967	Toms River Water Company
1990	Florida <u>4/</u>	890256-TL	Southern Bell Company
1990	New Jersey <u>1/</u>	ER89110912J	Jersey Central Power & Light
1990	New Jersey <u>1/</u>	WR90050497J	Elizabethtown Water Co.
1991	Pennsylvania <u>3/</u>	P900465	United Tel. Co. of Pa.
1991	West Virginia <u>2/</u>	90-564-T-D	C&P Telephone Co.
1991	New Jersey <u>1/</u>	90080792J	Hackensack Water Co.
1991	New Jersey <u>1/</u>	WR90080884J	Middlesex Water Co.
1991	Pennsylvania <u>3/</u>	R-911892	Phil. Suburban Water Co.
1991	Kansas <u>20/</u>	176, 716-U	Kansas Power & Light Co.
1991	Indiana <u>29/</u>	39017	Indiana Bell Telephone
1991	Nevada <u>21/</u>	91-5054	Central Tele. Co. – Nevada
1992	New Jersey <u>1/</u>	EE91081428	Public Service Electric & Gas
1992	Maryland <u>8/</u>	8462	C&P Telephone Co.
1992	West Virginia <u>2/</u>	91-1037-E-D	Appalachian Power Co.
1993	Maryland <u>8/</u>	8464	Potomac Electric Power Co.
1993	South Carolina <u>22/</u>	92-227-C	Southern Bell Telephone
1993	Maryland <u>8/</u>	8485	Baltimore Gas & Electric Co.
1993	Georgia <u>23/</u>	4451-U	Atlanta Gas Light Co.
1993	New Jersey <u>1/</u>	GR93040114	New Jersey Natural Gas. Co.
1994	Iowa <u>6/</u>	RPU-93-9	U.S. West – Iowa
1994	Iowa <u>6/</u>	RPU-94-3	Midwest Gas
1995	Delaware <u>24/</u>	94-149	Wilm. Suburban Water Corp.
1995	Connecticut <u>25/</u>	94-10-03	So. New England Telephone
1995	Connecticut <u>25/</u>	95-03-01	So. New England Telephone
1995	Pennsylvania <u>3/</u>	R-00953300	Citizens Utilities Company
1995	Georgia <u>23/</u>	5503-0	Southern Bell
1996	Maryland <u>8/</u>	8715	Bell Atlantic
1996	Arizona <u>26/</u>	E-1032-95-417	Citizens Utilities Company
1996	New Hampshire <u>27/</u>	DE 96-252	New England Telephone
1997	Iowa <u>6/</u>	DPU-96-1	U S West – Iowa
1997	Ohio <u>28/</u>	96-922-TP-UNC	Ameritech – Ohio
1997	Michigan <u>28/</u>	U-11280	Ameritech – Michigan
1997	Michigan <u>28/</u>	U-112 81	GTE North
1997	Wyoming <u>27/</u>	7000-ztr-96-323	US West – Wyoming
1997	Iowa <u>6/</u>	RPU-96-9	US West – Iowa

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1997	Illinois <u>28/</u>	96-0486-0569	Ameritech – Illinois
1997	Indiana <u>28/</u>	40611	Ameritech – Indiana
1997	Indiana <u>27/</u>	40734	GTE North
1997	Utah <u>27/</u>	97-049-08	US West – Utah
1997	Georgia <u>28/</u>	7061-U	BellSouth – Georgia
1997	Connecticut <u>25/</u>	96-04-07	So. New England Telephone
1998	Florida <u>28/</u>	960833-TP et. al.	BellSouth – Florida
1998	Illinois <u>27/</u>	97-0355	GTE North/South
1998	Michigan <u>33/</u>	U-11726	Detroit Edison
1999	Maryland <u>8/</u>	8794	Baltimore Gas & Electric Co.
1999	Maryland <u>8/</u>	8795	Delmarva Power & Light Co.
1999	Maryland <u>8/</u>	8797	Potomac Edison Company
1999	West Virginia <u>2/</u>	98-0452-E-GI	Electric Restructuring
1999	Delaware <u>24/</u>	98-98	United Water Company
1999	Pennsylvania <u>3/</u>	R-00994638	Pennsylvania American Water
1999	West Virginia <u>2/</u>	98-0985-W-D	West Virginia American Water
1999	Michigan <u>33/</u>	U-11495	Detroit Edison
2000	Delaware <u>24/</u>	99-466	Tidewater Utilities
2000	New Mexico <u>34/</u>	3008	US WEST Communications, Inc.
2000	Florida <u>28/</u>	990649-TP	BellSouth -Florida
2000	New Jersey <u>1/</u>	WR30174	Consumer New Jersey Water
2000	Pennsylvania <u>3/</u>	R-00994868	Philadelphia Suburban Water
2000	Pennsylvania <u>3/</u>	R-0005212	Pennsylvania American Sewerage
2000	Connecticut <u>25/</u>	00-07-17	Southern New England Telephone
2001	Kentucky <u>36/</u>	2000-373	Jackson Energy Cooperative
2001	Kansas <u>38/39/40/</u>	01-WSRE-436-RTS	Western Resources
2001	South Carolina <u>22/</u>	2001-93-E	Carolina Power & Light Co.
2001	North Dakota <u>37/</u>	PU-400-00-521	Northern States Power/Xcel Energy
2001	Indiana <u>29/41/</u>	41746	Northern Indiana Power Company
2001	New Jersey <u>1/</u>	GR01050328	Public Service Electric and Gas
2001	Pennsylvania <u>3/</u>	R-00016236	York Water Company
2001	Pennsylvania <u>3/</u>	R-00016339	Pennsylvania America Water
2001	Pennsylvania <u>3/</u>	R-00016356	Wellsboro Electric Coop.
2001	Florida <u>4/</u>	010949-EL	Gulf Power Company
2001	Hawaii <u>42/</u>	00-309	The Gas Company
2002	Pennsylvania <u>3/</u>	R-00016750	Philadelphia Suburban
2002	Nevada <u>43/</u>	01-10001 &10002	Nevada Power Company
2002	Kentucky <u>36/</u>	2001-244	Fleming Mason Electric Coop.
2002	Nevada <u>43/</u>	01-11031	Sierra Pacific Power Company
2002	Georgia <u>27/</u>	14361-U	BellSouth-Georgia
2002	Alaska <u>44/</u>	U-01-34,82-87,66	Alaska Communications Systems
2002	Wisconsin <u>45/</u>	2055-TR-102	CenturyTel
2002	Wisconsin <u>45/</u>	5846-TR-102	TelUSA
2002	Vermont <u>46/</u>	6596	Citizen's Energy Services
2002	North Dakota <u>37/</u>	PU-399-02-183	Montana Dakota Utilities
2002	Kansas <u>38/</u>	02-MDWG-922-RTS	Midwest Energy

**Michael J. Majoros, Jr.**

2002	Kentucky 36/	2002-00145	Columbia Gas
2002	Oklahoma 47/	200200166	Reliant Energy ARKLA
2002	New Jersey 1/	GR02040245	Elizabethtown Gas Company
2003	New Jersey 1/	ER02050303	Public Service Electric and Gas Co.
2003	Hawaii 42/	01-0255	Young Brothers Tug & Barge
2003	New Jersey 1/	ER02080506	Jersey Central Power & Light
2003	New Jersey 1/	ER02100724	Rockland Electric Co.

**Michael J. Majoros, Jr.**

**PARTICIPATION AS NEGOTIATOR IN FCC TELEPHONE DEPRECIATION  
RATE REPRESRIPTION CONFERENCES**

<u>COMPANY</u>	<u>YEARS</u>	<u>CLIENT</u>
Diamond State Telephone Co. <u>24/</u>	1985 + 1988	Delaware Public Service Comm
Bell Telephone of Pennsylvania <u>3/</u>	1986 + 1989	PA Consumer Advocate
Chesapeake & Potomac Telephone Co. - Md. <u>8/</u>	1986	Maryland People's Counsel
Southwestern Bell Telephone – Kansas <u>20/</u>	1986	Kansas Corp. Commission
Southern Bell – Florida <u>4/</u>	1986	Florida Consumer Advocate
Chesapeake & Potomac Telephone Co.-W.Va. <u>2/</u>	1987 + 1990	West VA Consumer Advocate
New Jersey Bell Telephone Co. <u>1/</u>	1985 + 1988	New Jersey Rate Counsel
Southern Bell - South Carolina <u>22/</u>	1986 + 1989 + 1992	S. Carolina Consumer Advocate
GTE-North – Pennsylvania <u>3/</u>	1989	PA Consumer Advocate

**Michael J. Majoros, Jr.**

**PARTICIPATION IN PROCEEDINGS WHICH WERE  
SETTLED BEFORE TESTIMONY WAS SUBMITTED**

<u>STATE</u>	<u>DOCKET NO.</u>	<u>UTILITY</u>
Maryland <u>8/</u>	7878	Potomac Edison
Nevada <u>21/</u>	88-728	Southwest Gas
New Jersey <u>1/</u>	WR90090950J	New Jersey American Water
New Jersey <u>1/</u>	WR900050497J	Elizabethtown Water
New Jersey <u>1/</u>	WR91091483	Garden State Water
West Virginia <u>2/</u>	91-1037-E	Appalachian Power Co.
Nevada <u>21/</u>	92-7002	Central Telephone - Nevada
Pennsylvania <u>3/</u>	R-00932873	Blue Mountain Water
West Virginia <u>2/</u>	93-1165-E-D	Potomac Edison
West Virginia <u>2/</u>	94-0013-E-D	Monongahela Power
New Jersey <u>1/</u>	WR94030059	New Jersey American Water
New Jersey <u>1/</u>	WR95080346	Elizabethtown Water
New Jersey <u>1/</u>	WR95050219	Toms River Water Co.
Maryland <u>8/</u>	8796	Potomac Electric Power Co.
South Carolina <u>22/</u>	1999-077-E	Carolina Power & Light Co.
South Carolina <u>22/</u>	1999-072-E	Carolina Power & Light Co.
Kentucky <u>36/</u>	2001-104 & 141	Kentucky Utilities, Louisville Gas and Electric

**Michael J. Majoros, Jr.**

Clients

- |   |   |
|---|---|
| <u>1/</u> New Jersey Rate Counsel/Advocate  | <u>22/</u> SC Dept. of Consumer Affairs                                     |
| <u>2/</u> West Virginia Consumer Advocate   | <u>23/</u> Georgia Public Service Comm.                                     |
| <u>3/</u> Pennsylvania OCA                  | <u>24/</u> Delaware Public Service Comm.                                    |
| <u>4/</u> Florida Office of Public Advocate | <u>25/</u> Conn. Ofc. Of Consumer Counsel                                   |
| <u>5/</u> Toms River Fire Commissioner's    | <u>26/</u> Arizona Corp. Commission   |
| <u>6/</u> Iowa Office of Consumer Advocate  | <u>27/</u> AT&T   |
| <u>7/</u> D.C. People's Counsel             | <u>28/</u> AT&T/MCI   |
| <u>8/</u> Maryland's People's Counsel       | <u>29/</u> IN Office of Utility Consumer Counselor                          |
| <u>9/</u> Idaho Public Service Commission   | <u>30/</u> Unitel (AT&T – Canada)   |
| <u>10/</u> Western Burglar and Fire Alarm   | <u>31/</u> Public Interest Advocacy Centre                                  |
| <u>11/</u> U.S. Dept. of Defense            | <u>32/</u> U.S. General Services Administration                             |
| <u>12/</u> N.M. State Corporation Comm.     | <u>33/</u> Michigan Attorney General  |
| <u>13/</u> City of Philadelphia             | <u>34/</u> New Mexico Attorney General                                      |
| <u>14/</u> Resorts International            | <u>35/</u> Environmental Protection Agency Enforcement Staff                |
| <u>15/</u> Woodlake Condominium Association | <u>36/</u> Kentucky Attorney General  |
| <u>16/</u> Illinois Attorney General        | <u>37/</u> North Dakota Public Service Commission                           |
| <u>17/</u> Mass Coalition of Municipalities | <u>38/</u> Kansas Industrial Group  |
| <u>18/</u> U.S. Department of Energy        | <u>39/</u> City of Wichita  |
| <u>19/</u> Arizona Electric Power Corp.     | <u>40/</u> Kansas Citizens' Utility Rate Board                              |
| <u>20/</u> Kansas Corporation Commission    | <u>41/</u> NIPSCO Industrial Group  |
| <u>21/</u> Public Service Comm. – Nevada    | <u>42/</u> Hawaii Division of Consumer Advocacy                             |
|   | <u>43/</u> Nevada Bureau of Consumer Protection                             |
|   | <u>44/</u> GCI  |
|   | <u>45/</u> Wisc. Citizens' Utility Rate Board                               |
|   | <u>46/</u> Vermont Department of Public Service                             |
|   | <u>47/</u> Oklahoma Corporation Commission                                  |
|   | <u>48/</u> National Association of Utility Consumer Advocates<br>("NASUCA") |